

3B

HEIGHT

3B

i. MINUTES

Commissioner Dodd made a motion to table indefinitely. He believed that if the fire department was doing their job correctly there would be no need for a referendum, and if they were not the Commission should have the power to do something about it immediately. The motion failed for lack of a second.

Commissioner Clotey did not object to what Commissioner Dodd was saying. She believed that if the referendum was worded properly it would give the power to the Commission.

Vice Mayor McIntee stated that the referendum would be decided by the Commission as to what it would say. He added that it would be up to the voters whether to protect the Fire department or not.

Commissioner Silverstone referred to a recent suicide and believed that the issue could be brought up again by a future Commission who could terminate the Volunteers. He said the referendum did not address safety but allowed the people to decide whether to keep the fire department. Commissioner Silverstone said there was a way to create a referendum that would address both issues.

Commissioner Dodd suggested scheduling the workshop in April to allow time to obtain acceptable wording for the referendum. Mayor Minnet suggested the Commission wait until the March 2010 election and get the referendum right. Vice Mayor McIntee agreed. Commissioner Silverstone believed that the March elections would have too many things on the ballot. Vice Mayor agreed to having the workshop sometime in May.

 The Commission scheduled the workshop for Wednesday, May 13, 2009 at 7:00 p.m. to discuss fire, height and capital expenditures.

Vice Mayor McIntee asked Attorney Abbott whether a document, created by a Commissioner and read word for word, became public record. Attorney Abbott said it depended on whether it was meant to permanently record a recollection or not. He added that rough notes could be drafted, even rough notes for a speech and, if not intended to permanently record thoughts it would not become a public record. Vice Mayor McIntee wanted to know whether he was entitled to copies of the notes. Attorney Abbott stated that if the note was not circulated to others and was not intended to permanently record recollection, it did not become a public record. He added that if the note was shown to another Town official or was meant to permanently record recollection it would become a public record.

- b.** Discussion and/or action regarding Valet Parking for 101 Ocean and Village Grill (Vice Mayor McIntee) Tabled at the January 27, 2009 Commission meeting by Vice Mayor McIntee

Commissioner Dodd was horrified that this made it to the dias. He read a letter written by previous Assistant Town Manager Laura Ward that indicated the Town would provide fencing. He said the Towers had been trying to get their money for the fencing for 4 years. He felt the Town should send the check along with an apology as it was a legal binding letter by a Town official.

Vice Mayor McIntee said the Town was returning what the Condo Association negotiated. Mr. Condra stated that the Town stated that the fencing would be there as part of the project and the Association would be reimbursed for it.

Commissioner Silverstone remembered that FP&L was supposed to be responsible. Manager Colon said that the Town Attorney at that time recommended against it as it was a contractual agreement between FP&L and the Condominium Association. Commissioner Silverstone believed the Town was committed and suggested making the payment.

Mayor Minnet believed in moving forward and requested a motion.

Vice Mayor McIntee made a motion to approve payment. Commissioner Dodd seconded the motion. The motion carried 4-1. Commissioner Clotey voted no.

* b. Discussion and/or action: Putting a referendum on the Ballot to let the citizens decide on height regulations in our Town (Vice Mayor McIntee)

Vice Mayor McIntee believed there were a lot of different opinions on the height issue and hoped a workshop would clear them up.

Commissioner Dodd believed a workshop was needed. He stated that he spoke out many times that 44 feet should be measured from the ground up. Commissioner Dodd believed that the Master Plan Steering Committee and the Planning and Zoning Board should come before the Commission with guidelines as to what they felt was appropriate. Commissioner Silverstone believed the height limit should be set in stone as to what the maximum allowable height should be.

Commissioner Clotey believed that the only way to go was with a referendum so that 3 people on the Dais could not change things.

c. Garden Court - Discussion and/or action rescinding donation of land to developer back to the Town (Vice Mayor McIntee)

Vice Mayor McIntee believed this was a perfect example of how the Town was hustled into giving away a tremendous piece of valuable property to Developers.

Attorney Abbott stated that since the construction had begun the abandonment on the Town's behalf was completed. Attorney Abbott explained that the motion made by the Commission required as a condition, that the Vacation be contingent upon the project beginning within a certain period of time and concluded by a certain period of time. He

ARTICLE VII. PLANNING AND ZONING**Sec. 7.1. Maximum height for buildings established; referendum vote required for increases in zoned residential-district height limits.**

✱ (1) No building within the jurisdictional boundaries of the Town, as they existed on March 20, 2006, shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet

- (a) Above grade, as defined in the Florida Building Code, or
- (b) Above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, or
- (c) Above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

Whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other roofs structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height.

(2) In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall be used for parking, either with or without toll collection booths. The first story may also be used for storage, refuse, security, registration, maintenance, and/or access, either with or without a lobby, provided that at least one-half (1/2) of the square footage of the first story is used for parking. Only within districts of the Town zoned for business ("B") use, the first story of buildings having more than three (3) stories above grade may also be devoted to non-residential commercial uses, provided that dedicated parking required by Town ordinance or code for the proposed buildings is provided off-street at a location on or adjacent to the property on which the buildings are situate, and designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. For the purposes of this provision of the Charter, a story is at grade level if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one (1) or more subterranean stories below grade, provided, however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.

(3) Buildings which exceed thirty three (33) feet above grade, and which exceed thirty three (33) feet above the horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, but which are nevertheless allowed under subparagraph (1)(c) of this Section, and which do not include a non-habitable first floor with ample parking as required by Town ordinance or code, in accordance with the number

and type of units in those buildings, must have dedicated off-street parking at a location on or adjacent to the property on which the buildings are situate. Parking for buildings in this category must be designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic.

(4) All existing buildings within the Town that were legally in compliance with existing height and use restrictions on March 20, 2006, or were grandfathered on that date, but that either exceed the maximum building height limit established in paragraph (1), above, of this section of the Charter, or that fail to comply, where applicable, with the restrictions on use established in paragraph (2), above, of this section of the Charter, (hereinafter referred to as "Non-conforming Buildings") shall be considered legal, but non-conforming.

(5) Notwithstanding the maximum building height limit established in paragraph (1), above, of this section of the Charter, an existing non-conforming building may be replaced by a new nonconforming building when, and only when:

(a) The existing non-conforming building has:

- (i) Been destroyed by fire, natural disaster, or other act of God; and
- (ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and
- (iii) Construction of the replacement building is commenced within twelve (12) months of the date of destruction; or

(b) The existing non-conforming building is:

- (i) Demolished as part of a Town approved redevelopment of the property; and
- (ii) Prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building; and
- (iii) Construction of the replacement building is commenced within six (6) months of the date of site plan approval.

(c) The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs (5)(a)(iii) and (5)(b)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.

(d) All new non-conforming buildings constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall comply, where applicable, with the restrictions on use established in paragraph (2), above, and the provisions for parking availability established in paragraph (3), above, of this section of the Charter.

(e) The maximum allowable height of any new non-conforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the charter) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building. Nothing in this section of the Charter shall be construed to prevent a new non-conforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original non-conforming building which it replaces. For the purposes of this provision of the Charter, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.

(f) The maximum allowable square footage of any new nonconforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original square footage of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the Charter) may be necessary to obtain the same number of habitable square feet as was contained in the original non-conforming building. Nothing in this section of the Charter shall be construed to prevent a new nonconforming building from being constructed either with less total square footage or with less habitable square footage than that of the original non-conforming building which it replaces. For the purposes of this section of the Charter, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.

(6) The maximum building height limits, the restrictions on use and the maximum allowable square footage, and the provisions governing parking established in paragraphs (1), (2), (3) and (5), above, of this section of the Charter, shall be applicable to all real property located within the boundaries of the Town as the boundaries exist on March 20, 2006.

(7) Every resident of the Town shall have the standing to enforce the maximum building height limits and the maximum allowable square footage established in paragraphs (1), (2) and (5), above, of this section of the Charter, by means of a suit in equity seeking either mandamus; prohibition; or any combination thereof, but nothing in this provision of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.

(8) The maximum building height limit established in paragraph (1), above, of this section of the Charter, supersedes any existing zoning ordinance or land development regulation to the extent that said zoning ordinance or land development regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraph (1), above, of this section of the Charter, but nothing in this section of the Charter shall be construed to supersede, modify or repeal any existing zoning ordinance or land development regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraph (1), above, of this section of the Charter.

(9) The Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph (2), above, or the provisions for parking availability established in paragraphs (2), (3) or (5), above, of this section of the Charter, nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph (5), above, of this section of the Charter. The maximum height limits established for residential zoning districts including, but not limited to, R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD in the Town's land development code as of March 20, 2006, may be increased, or such districts re-zoned for any other use whatsoever, only by a referendum vote of the registered voters of the Town in the manner established in Article IV, Section 4.7 [50] of this Charter for the repeal or amendment of initiated ordinances. The Town may not create new categories of zoning without approval of such categories by a similar referendum vote; and all provisions of such new categories of zoning must be submitted to the voters for approval.

(10) The maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, may be increased only by an amendment to or by repeal of this section of the Charter. The restrictions on use established in paragraph (2), above, and the provisions governing parking availability established in paragraphs (2), (3) and (5), above, of this section of the Charter, may be modified, amended or repealed only by an amendment to or by repeal of

this section of the Charter. The maximum allowable square footage established in paragraph (5), above, of this provision of the Charter, may be increased only by an amendment to, or by repeal of this section of the Charter. Except as expressly provided below, this section of the Charter may be amended or repealed only by means of a majority vote of the registered voters of the Town at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal general election. The amendment or repeal of this section of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal general election is expressly prohibited, except that a special election or special election by mail may be held to correct, to the minimum practicable extent, a provision adjudged by a court of competent jurisdiction to violate the State or Federal Constitution or any valid state or federal law, but only after such adjudication is affirmed on appeal. Amendments approved at a special election may include no elements not directly related to such court adjudication.

(11) These provisions of the Charter shall be effective immediately upon adoption by a majority of the registered voters of the Town voting in a referendum to amend the Charter so as to include these provisions. Upon adoption, the maximum building height limits, the restrictions on use, the maximum allowable square footage and the provisions governing parking availability established in paragraphs (1), (2), (3) and (5), above, of this section of the Charter, shall immediately apply to all real property located within the boundaries of the entire Town. Upon adoption of these provisions, and pending amendment of any portion or portions of the Town's Code of Ordinances inconsistent with this section of the Charter, the more stringent provisions of this section shall apply.

Sec. 7.2. Restrictions on the vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property.

(1) As used in this section of the Charter, the term "the El Prado Property" shall refer to the following described real property situate, lying and being in the Town of Lauderdale-By-The-Sea, Florida:

The real property bounded on the west by the eastern boundary line of the Ocean Drive (also known as State Road A1A right-of-way, bounded on the east by the western boundary line of the El Mar Drive right-of-way, bounded on the north by the south boundary line of Lots 1, 2, 3, 4 and 5 of Block 11, and bounded on the south by the north boundary line of Lots 11, 12, 13, 14 and 15 of Block 12, all said Lots, Blocks and rights-of-way as set forth in the Plat of the Lauderdale-By-The-Sea Subdivision as recorded in Plat Book 6, at Page 2 of the Public Records of Broward County, Florida;

and

The real property bounded on the west by the eastern boundary line of the El Mar Drive right-of-way, bounded on the east by the western shore of the Atlantic Ocean, bounded on the north by the southern boundary line of Lot 1, Block 8, and bounded on the south by the north boundary line of Lot 13, Block 7, all said Lots, Blocks and rights-of-way as set forth in the Plat of the Lauderdale By-The-Sea Subdivision as recorded in Plat Book 6, at Page 2 of the Public Records of Broward County, Florida.

(2) The Town may not vacate, abandon, lease, sell, transfer possession or transfer ownership of the El Prado Property without first obtaining a majority vote of the Town's electors at a referendum election held for the specific purpose of authorizing said vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property.

(3) Any referendum election called for the purpose of authorizing the vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property shall be held either on the same day as a regularly scheduled November general election or on the

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ii. PREVIOUS REFERENDUM

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO. 05-18390 CACE (11) (Goldstein)

JEROME S. McINTEE, individually,
and LBTS CITIZENS INITIATIVE
COMMITTEE, INC.,

Plaintiffs,

vs.

TOWN OF LAUDERDALE-BY-THE-SEA,
a Florida municipality,

Defendant.

A TRUE COPY
HOWARD C. FORMAN
CLERK OF CIRCUIT COURT

JAN 12 2006

FILED
CLERK OF CIRCUIT COURT
BROWARD COUNTY

2006 JAN 12 PM 3:00

COFFMAN ROOM

AGREED ORDER VACATING JUDGMENT and VOIDING WRIT

THE PARTIES have amicably resolved all issues, including appellate rights, and have submitted the following agreed order for ratification by the Court. The Court having considered the agreed terms and conditions and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED:

1. This Court's Order of January 6, 2006 is hereby vacated and the Preemptory Writ of Mandamus dated January 9, 2006 is hereby vacated and, neither shall hence be of any further force or effect.

2. Plaintiff's ballot question, which is the subject of this action, will be submitted to the electors on the March 14, 2006 ballot. Plaintiff's original petition for submission of a ballot question regarding height, which the Town has scheduled for the November 2006 general election, has been withdrawn by the Plaintiff. The Defendant has acknowledged withdrawal of the original petition, and the Court directs that it not be submitted to the electors for a vote.

3. The Town's two (2) ballot questions, (submitted by Town Ordinance 2005-18 and 2005-20), will be withdrawn from the March 14, 2006 election and submitted in the November 2006 general election. The Defendant will not add any additional ballot questions regarding height to the November ballot.

4. Neither Plaintiffs nor any member of the LBTS CITIZENS INITIATIVE COMMITTEE, INC., will submit or subscribe to any petition for a charter amendment regarding height or zoning for placement on the November 2006 general election ballot.

5. In the event that the Plaintiffs' March ballot question and the first or both of Defendant's November ballot questions pass, the language adopted in November will control and will operate to supersede, replace and repeal all prior versions of Section 277 of the Town Charter.

6. Neither the Plaintiffs nor the Defendant are otherwise restrained or restricted from supporting or opposing the Plaintiffs' ballot question in March or the Town's two (2) ballot questions in November.

7. The Town will notify the Broward County Supervisor of Elections of the foregoing ballot question submissions and withdrawals and will provide the Supervisor of Elections with a copy of this Order.

8. If Plaintiffs' amendment shall not be adopted by the electorate in March, the Town, to the extent permitted by law, will continue its current zoning in progress regarding height, which was implemented by Resolution 2005-08, until after the November 2006 general election, except as it relates to actions necessitated as the result of the case pending against the Town by Sea Colony, Inc. (*Sea Colony, Inc. vs. Town of Lauderdale-By-The-Sea, Florida*, Cir.Ct. 17th Jud. Cir. Case No. 05-14142).

9. The Plaintiff, within thirty (30) days following certification of the elections results of the March 2006 election, will file a notice with this Court indicating the outcome of the electors' vote on Plaintiff's ballot question.

10. The Town within thirty (30) days of certification of the elections results from the November 2006 election will file a notice with this Court indicating the outcome of the electors' vote on the Town's two (2) ballot questions.

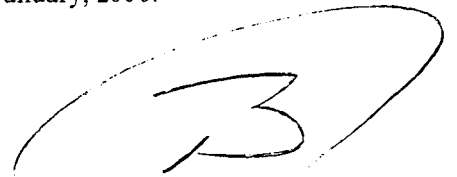
11. No party shall be permitted to amend its pleadings in this action, nor to file an appeal of any actions heretofore taken in this action.

12. The Court retains jurisdiction to monitor and enforce the terms of this Stipulation of the parties until the Court receives the Town's notice of the outcome of the November 2006 general election at which time this action will be concluded, with prejudice, and each party shall bear its own costs and fees.

13. All other pending matters related to this action not addressed herein are abated.

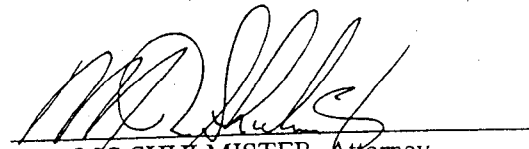
DONE AND ORDERED in Chambers this 12th day of January, 2006.

By



BARRY E. GOLDSTEIN
CIRCUIT JUDGE

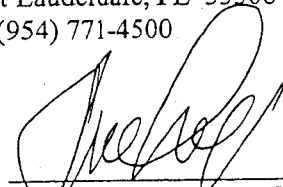
We hereby certify that our respective clients have agreed to the entry of the foregoing order.



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M. Ross Shulmister

(attorney for Defendant)
(attorney for Plaintiffs)

PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
REVISE 3-OVER-1-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

Undersigned Registered Voters of Lauderdale-by-the-Sea

**A CHARTER AMENDMENT REFINING AND STRENGTHENING THE 3-OVER-1-STORY
HEIGHT LIMIT, EXTENDING THAT PROTECTION TOWN-WIDE, AND PROVIDING
FOR VOTER CONTROL OVER BUILDING HEIGHT LIMITS IN RESIDENTIAL AREAS**

WHEREAS, Chapter 166, Florida Statutes., as amended, provides a methodology of charter amendments supplementary to and not in conflict with the Charter of the Town of Lauderdale-by-the-Sea ("Town"); and,

WHEREAS, Chapter 166, F.S., as amended, provides that such charter amendment may be submitted by electors of a municipality, by a petition signed by 10 percent of the registered electors as of the last preceding *municipal general election*; to referendum at the *next* general election *held in the municipality* or at a special election; and

WHEREAS, the present Town Charter was amended by popular referendum in 1998 to provide a "3-over-1-story" height limit for new building construction within the boundaries of the Town at that time; and

WHEREAS, voters of the Town were assured by an elected official of the Town prior to that referendum that its "*primary purpose*" was "*taking away the power the Town Commission presently has to regulate building heights and giving that power directly to the Town's residents*" and;

WHEREAS, voters of the Town were assured by the same elected official, prior to that referendum, that "if [the] Charter Amendment passes, *the Town Commission will no longer have the power to raise building height limits in Town without first obtaining voter approval in a town-wide referendum*"; and

WHEREAS, the 1998 charter amendment has proven inadequate in that it fails to provide for construction of simple 3-story buildings (as well as 3-over-1-story buildings) in coastal construction zones, and also in that, according subsequently to the same elected official, *by virtue of that very charter amendment*, the Town Commission was *actually granted the power, to raise the height limit* in the Town's key seaside zoning district, *without voter approval*, overturning an existing 3-story height limit established under a long-standing "electoral" zoning ordinance, also passed by popular referendum following a citizens initiative in 1973; and

WHEREAS, Section 70.001, Florida Statutes, *makes no reference to relief from actions by citizen voters themselves, through amendments of their municipal charter* (as separate and distinct from "laws, regulations and ordinances of the state and political entities of the state" or "specific actions of a governmental entity,") and does not, therefore, appear to constrain citizen voters from acting to *protect their environment and prevent barrier-island overpopulation, traffic congestion, etc.*, through land-use provisions of their municipal charter; and

WHEREAS, registered voters of the annexed area have evidenced a desire – and many have expressly confirmed that desire by their signatures below – *to enjoy the same building height-limit protection* currently enjoyed by residents of the Town within its pre-annexation borders; and

WHEREAS, there is no apparent legal impediment to charter amendment by voters, as provided in Section 166, Florida Statutes, in lieu of an enabling ordinance as specified in Chapter 99-465 of the Laws of Florida, or to the subsequent extension, to the area annexed to the Town in 2001, of the 3-over-1-story town-wide height limit established in 1998, and as amended by the following proposed amendment; and

WHEREAS, voters residing in residential areas in both parts of the Town have evidenced a desire – and many have expressly confirmed that desire by their signatures below – for *protection*, in addition to that provided by the 1998 amendment, *against any increases in the zoned height limits in their respective residential* (R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD) *zoning districts without prior approval by the voters*; and

WHEREAS the undersigned registered voters of the Town have reviewed this proposed amendment, agree that they should do everything possible to insure enactment of a further Charter amendment to *guarantee effective height limits* on new construction throughout the Town in order to *preserve the unique low-profile, non-commercialized, small-town charm* that has motivated so many over the years to make Lauderdale-by-the-Sea their home; and therefore that the proposed charter amendment be submitted to registered voters of the Town by referendum at the next *municipal* general election following verification of required signatures to this Petition;

PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
REVISE 3-OR-4-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

NOW, THEREFORE, AFFIRMING THE FOREGOING WHEREAS CLAUSES AS TRUE AND CORRECT, BE IT AGREED, PROPOSED AND SUBMITTED BY THE UNDERSIGNED REGISTERED ELECTORS (VOTERS) OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, (TOWN) THAT THE FOLLOWING PROPOSED AMENDMENT TO THE TOWN CHARTER BE SUBMITTED TO A VOTE OF THE ELECTORS OF THE TOWN AT THE NEXT GENERAL ELECTION HELD WITHIN THE MUNICIPALITY:

SECTION 1. Article VII [XIV], Section 7.6 [277], of the Town Charter, entitled, "Maximum Height for Buildings Established" is hereby amended as follows:

Sec. 7.1 [277] Maximum height for buildings established; referendum vote required for increases in zoned residential-district height limits.

- (1) No building within the jurisdictional boundaries of the Town, as they existed on [the effective date of adoption of this amendment, to be inserted at the time of adoption of this amendment], shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four stories above grade shall be forty-four (44) feet above grade, excluding elevator shafts and/or stairways as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet

(a) above grade, excluding elevator shafts and/or stairways, as defined in the Florida Building Code, or

(b) above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, or

(c) above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other roof structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height. For the purposes of this provision of the Charter, a story is above grade if its ceiling is above grade.

- (2) In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall be used for parking, either with or without toll collection booths. The first story may be used for storage, refuse, security, registration, maintenance, and/or access, either with or without a lobby, provided that at least one-half (½) of the square footage of the first story is used for parking. Only within districts of the Town zoned for business ("B") use, the first story of buildings having more than three (3) stories above grade may also be devoted to non-residential commercial

PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
REVISE 3-OR 4-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

uses, provided that dedicated parking required by Town ordinance or code for the proposed buildings is provided off-street at a location on or adjacent to the property on which the buildings are situate, and designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. For the purposes of this provision of the Charter, a story is at grade level if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one (1) or more subterranean stories below grade, provided, however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.

- (3) Buildings which exceed thirty three (33) feet above grade, and which exceed thirty three (33) feet above the horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, but which are nevertheless allowed under subparagraph (1)(c) of this Section, and which do not include a non-habitable first floor with ample parking as required by Town ordinance or code, in accordance with the number and type of units in those buildings, must have dedicated off-street parking at a location on or adjacent to the property on which the buildings are situate. Parking for buildings in this category must be designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic.
- (4) All existing buildings within the Town that were legally in compliance with existing height and use restrictions on [the effective date of adoption of this amendment, to be inserted at the time of adoption of this amendment], or were grandfathered on that date, but that either exceed the maximum building height limits established in paragraph (1), above, of this provision section of the Charter, or that fail to comply, where applicable, with the restrictions on use established in paragraph (2), above, or which, where applicable, fail to provide for the parking required in paragraph (3), above, of this provision section of the Charter, ~~on the effective date of this Charter amendment~~ (hereinafter referred to as "Non-conforming Buildings") shall be considered legal, but non-conforming.
- (5) Notwithstanding the maximum building height limit established in paragraph (1), above, of this provision section of the Charter, an existing non-conforming building may be replaced by a new nonconforming building when, and only when:
- (a) The existing nonconforming building has:
- (i) Been destroyed by fire, natural disaster, or other act of God; and
- (ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and
- (iii) Construction of the replacement building is commenced within twelve (12) months of the date of destruction; or

**PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
REVISE 3-OR-4-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
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- (b) The existing non-conforming building is:
- (i) Demolished as part of a Town approved redevelopment of the property, and
 - (ii) Prior to demolition, the property owner has submitted, and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within six (6) months of the date of site plan approval.
- (c) The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs ~~(4)(5)(a)(iii)~~ and ~~(4)(5)(b)(iii)~~, above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.
- (d) All new non-conforming buildings constructed pursuant to the provisions of either paragraph ~~(4)(5)(a)~~ or ~~(4)(5)(b)~~, above, shall comply, where applicable, with the restrictions on use established in paragraph (2), above, and the provisions for parking availability established in paragraph (3), above, of this ~~provision~~ section of the Charter.
- (e) The maximum allowable height of any new non-conforming building constructed pursuant to the provisions of either paragraph ~~(4)(5)(a)~~ or ~~(4)(5)(b)~~, above, shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this ~~provision~~ section of the charter) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building. Nothing in this ~~provision~~ section of the Charter shall be construed to prevent a new non-conforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original non-conforming building which it replaces. For the purposes of this provision of the Charter, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.
- (f) The maximum allowable square footage of any new nonconforming building constructed pursuant to the provisions of either paragraph ~~(4)(5)(a)~~ or ~~(4)(5)(b)~~, above, shall not exceed the original square footage of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this ~~provision~~ section of the Charter) may be necessary to obtain the same number of habitable square feet as was contained in the original non-conforming building. Nothing in this ~~provision~~ section of the Charter shall be construed to prevent a new non- conforming building from being constructed either with ~~either~~ less total square footage or with less habitable square footage than that of the original non-conforming building which it replaces. For the purposes of this ~~provision~~ section of the Charter, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.

**PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
REVISE 3-OR 4-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS**

- (6) The maximum building height limits, the restrictions on use and, the maximum allowable square footage, and the provisions governing parking established in paragraphs (1), (2), (3) and (4)(5), above, of this provision section of the Charter, shall be applicable to all real Property located within the boundaries of the Town as the boundaries exist on March 10, 1998 [the effective date of adoption of this amendment, to be inserted at the time of adoption of this amendment]. ~~However, the maximum building height limits, the restrictions on use and the maximum allowable square footage established in paragraphs (1), (2) and (4), above, of this provision of the Charter, shall not be applicable to any real property annexed into the Town after March 10, 1998.~~
- (7) Every resident of the Town shall have standing to enforce the maximum building height limits, and the maximum allowable square footage established in paragraphs (1), (2) and (4)(5), above, of this provision section of the Charter, by means of a suit in equity seeking either mandamus, prohibition, or any combination thereof, but nothing in this provision of the Charter shall be construed either to create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.
- (8) The maximum building height limit established in paragraph (1), above, of this provision section of the Charter, supersedes any existing zoning ordinance or land development regulation to the extent that said zoning ordinance or land development regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraph (1), above, of this provision section of the Charter, but nothing in this provision section of the Charter shall be construed to supersede, modify or repeal any existing zoning ordinance or land development regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraph (1), above, of this provision section of the Charter.
- (9) ~~Nothing in this provision of the charter shall be construed to limit the power of the Town Commission (and the Town Commission is hereby specifically authorized) to amend the Town's existing zoning ordinances and/or land development regulations to establish anywhere within the Town a maximum building height limits equal to or lower than that established in paragraph (1), above, of this provision of the Charter. However,~~ The Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs (1) and (4)(5), above, of this provision section of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph (2), above, or the provisions for parking availability established in paragraphs (2), (3) or (5), above, of this provision section of the Charter, nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph (4)(5), above, of this provision section of the Charter. The maximum height limits established for residential zoning districts including, but not limited to, R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD in the Town's land development code as of [the effective date of adoption of this amendment, to be inserted at the time of adoption of this amendment], may be increased, or such districts re-zoned for any other use whatsoever, only by a referendum vote of the registered voters of the Town in the manner established in Article IV, Section 4.7 [50] of this Charter for the repeal or amend-

PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
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ment of initiated ordinances. The Town may not create new categories of zoning without approval of such categories by a similar referendum vote; and all provisions of such new categories of zoning must be submitted to the voters for approval.

- (10) The maximum building height limits established in paragraphs (1) and (4)(5), above, of this ~~provision section~~ of the Charter, may ~~only~~ be increased only by an amendment to, or by repeal of, this ~~provi-sion section~~ of the Charter. The restrictions on use established in paragraph (2), above, and the provisions governing parking availability established in paragraphs (2), (3) and (5), above, of this ~~provision section~~ of the Charter, may ~~only~~ be modified, amended or repealed only by an amendment to or by repeal of this ~~provision section~~ of the Charter. The maximum allowable square footage established in paragraph (4)(5), above, of this ~~provision section~~ of the Charter, may ~~only~~ be increased only by an amendment to, or by repeal of, this ~~provision section~~ of the Charter. Except as expressly provided below, this provision section of the Charter may only be amended or repealed only by means of a majority vote of the registered voters of the Town's electors at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal general election. The amendment or repeal of this provision section of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal general election is expressly prohibited, except that a special election or special election by mail may be held to correct, to the minimum practicable extent, a provision adjudged by a court of competent jurisdiction to violate the State or Federal Constitution or any valid state or federal law, but only after such adjudication is affirmed on appeal. Amendments approved at a special election may include no elements not directly related to such court adjudication,
- (11) ~~This~~ These provisions of the Charter shall be effective immediately upon adoption by a majority of the ~~electors~~ registered voters of the Town voting in a referendum to amend the Charter so as to include this ~~these~~ provisions. Upon adoption, the maximum building height limits, the restrictions on use, and the maximum allowable square footage and the provisions governing parking availability established in paragraphs (1), (2), (3) and (4) (5), above, of this ~~provision section~~ of the Charter, shall immediately apply to all real property located within the boundaries of the ~~entire~~ Town, as those boundaries exist on March 10, 1998. Upon adoption of these provisions, and pending amendment of any portion or portions of the Town's Code of Ordinances inconsistent with this section of the Charter, the more stringent provisions of this section shall apply.

SECTION 2. All other provisions of the Town Charter of Lauderdale-by-the-Sea, or parts thereof, all Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict.

SECTION 3. If any clause, section or other part of this provision of the Charter shall be held by any court of competent jurisdiction, following appeal when applicable, to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and not affecting the validity of the remaining portions of this ~~provision section~~ of the eCharter and the application of those other portions shall remain in full force and effect.

PETITION TO AMEND TOWN CHARTER OF LAUDERDALE-BY-THE-SEA:
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SECTION 4. If Section 70.001, Florida Statutes, (which specifically addresses "a new law, rule, regulation, or ordinance of the state or a political entity in the state" but is completely silent with regard to new amendments to the Florida Constitution or to municipal charters) shall be held by any court of competent jurisdiction, and affirmed on appeal, nevertheless also to apply to new amendments to municipal charters, then any building height limits, restrictions on use, maximum allowable square footage, and provisions governing parking availability imposed under paragraphs (1), (2), (3) and (5), above, of this section of the Charter, as amended, and which are more stringent than limits, restrictions or provisions existing prior to the enactment of the present amendment, shall cease to apply to any property concerning which a claim has been properly filed, or shall subsequently be properly filed with the Town in compliance with the provisions of Section 70.001, F.S. In that event, any and all conditional building permits, conditional site-plan approvals or conditional settlements under Section 70.001, F.S., tentatively issued or approved by the Town in anticipation of and contingent upon such a finding by the courts shall immediately enter into full force and effect.

SECTION 5. Following the certification of election results including the approval of the above proposed charter amendment, the Town Clerk is hereby requested to insure that the appropriate numbers and/or letters are affixed to the respective Articles and Sections of the Charter to bring the numbering system into conformity with that amendment, and to insert the applicable date in paragraphs 1, 4, 6, and 9 of the section, as amended.

SECTION 6. The suggested Ballot Title for this referendum question is:

REVISE 3-OVER-1 HEIGHT LIMIT AND EXTEND TOWNWIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

SECTION 7. This proposed charter amendment shall be placed on the ballot for consideration by the registered voters of the Town of Lauderdale-by-the-Sea, Florida, at the next general election held within the municipality of Lauderdale-by-the-Sea. The suggested election ballot summary is as follows:

Shall Section 7.1 [277] of the Town Charter be amended to establish building height limits town-wide as 33 feet (44 feet with a non-habitable first floor), define "building height," restrict uses of non-habitable first and subterranean floors except in business districts, establish parking requirements and otherwise clarify that Charter Section; these amendments to take effect immediately upon passage; these and certain zoning provisions, with one exception, to be amendable only by referendum at a general election?

YES _____

NO _____

SECTION 8. The Town Commission of Lauderdale-by-the-Sea is hereby requested to forward this referendum question to the Broward County, Florida, Supervisor of Elections for inclusion on the ballot at the next municipal general election, and to instruct the Town Clerk to advertise the referendum vote contemplated herein in accordance with the Florida State Election Code and with our Town Charter and Code of Ordinances.

SECTION 9. The foregoing amendments to Section 7.1 [277] of the Charter shall be effective immediately upon adoption by the voters.

REVISE 3-OR 4-STORY HEIGHT LIMIT AND EXTEND TOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

SECTION 10. The undersigned registered voters of Lauderdale-by-the-Sea, Florida, and those whose names and addresses appear on the reverse of this paper and attached hereto, petition hereby, in accordance with Section 166.031, Florida Statutes, for a referendum vote, at the next municipal general election, on the above Town-Charter amendment providing that Section 7.1 [277] of the Town Charter shall be amended to establish building height limits throughout the Town as 33 feet (44 feet for three habitable stories with a non-habitable first floor); define "building height;" restrict uses of non-habitable first and subterranean floors, but permit non-residential commercial use of first floors of 3-over-1-story buildings in business ("B-") zoned districts; establish parking requirements for certain three-story buildings; apply the above provisions town-wide; provide for grand-fathering; provide that these amendments shall take effect immediately upon passage; prohibit changes to the above provisions, or increases in maximum building-height limits in residential zoning districts, except by referendum vote at a general election, or at a special election only to the extent necessary to comply with subsequent court decisions; and otherwise clarify that Charter Section.

[illegible]

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Words in **bold face and underlined** type are additions;
Language in [square brackets]: to be replaced with applicable date(s);
Numbering in [square brackets] reflects numbering prior to amendments approved in March 2004.

REVISE 3-OVER 4-STORY HEIGHT LIMIT AND EXTEND DOWN-WIDE;
ESTABLISH VOTER CONTROL OVER ZONED RESIDENTIAL HEIGHT LIMITS

SECTION 10. The undersigned registered Lauderdale-by-the-Sea, Florida, voters, and those whose names and addresses appear on the reverse of this paper and attached hereto, petition hereby, in accordance with Section 166.031, Florida Statutes, for a referendum vote, at the next municipal general election, on the above Town-Charter amendment providing that Section 7.1 [277] of the Town Charter shall be amended to establish building height limits throughout the Town as 33 feet (44 feet for three habitable stories with a non-habitable first floor); define "building height;" restrict uses of non-habitable first and subterranean floors, but permit non-residential commercial use of first floors of 3-over-1-story buildings in business ("B-") zoned districts; establish parking requirements for certain three-story buildings; apply the above provisions town-wide; provide for grand-fathering; provide that these amendments shall take effect immediately upon passage; prohibit changes to the above provisions, or increases in maximum building-height limits in residential zoning districts, except by referendum vote at a general election, or at a special election only to the extent necessary to comply with subsequent court decisions; and otherwise clarify that Charter Section.

Signature: **Printed name:** **Address as shown on Voter's Registration Card:**

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be from a notebook or a standard ruled document.

CODING: Words in ~~struck through~~ type are deletions from existing law;
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Numbering in [square brackets] reflects numbering prior to amendments approved in March 2004.

REVISE 3-07-11 STORY HEIGHT LIMIT AND EXTEND DOWN-WIDE;

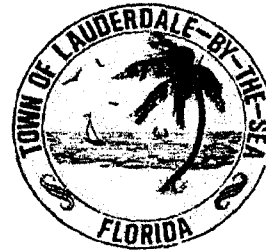
Signature: **Printed name:** **Address as shown on Voter's Registration Card:**

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iii. ADDITIONAL DOCUMENTS

Town of Lauderdale-by-the-Sea
OFFICE OF THE TOWN MANAGER



September 18, 2008

To: Commissioner Stuart Dodd

From: Esther Colon 

Re: Height Limit Referendum

Attached are the documents related to the 1998 and 2006 Height Limit referendum as requested.

cc: Mayor Minnet
Vice Mayor Jerry McIntee
Commissioner Birute Clotey
Commissioner Jim Silverstone
Dan Abbott, Town Attorney
John, Jeff and June

1998 Height Limit Referendum

- Ordinance #399
- Minutes approving Ordinance #399

ORDINANCE # 399

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE SEA, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO THE TOWN CHARTER; PROVIDING A MAXIMUM BUILDING HEIGHT OF FORTY-FOUR (44) FEET FOR ALL BUILDINGS WITHIN THE TOWN; PROVIDING THAT ALL BUILDINGS WITHIN THE TOWN SHALL BE LIMITED TO NO MORE THAN FOUR (4) STORIES; PROVIDING THAT IN ANY BUILDING OVER THREE (3) STORIES, THE FIRST STORY SHALL BE USED FOR PARKING; PROVIDING FOR GRANDFATHERING OF EXISTING BUILDINGS; PROVIDING FOR RECONSTRUCTION OF GRANDFATHERED BUILDINGS IN THE EVENT OF DESTRUCTION OR REDEVELOPMENT; PROVIDING THAT RESIDENTS MAY SUE TO ENFORCE THIS BUILDING HEIGHT LIMIT; PROVIDING FOR LIMITATIONS ON FUTURE CHARTER AMENDMENTS; PROVIDING AN EFFECTIVE DATE FOR THE CHARTER AMENDMENT; PROVIDING FOR FORM OF QUESTION TO BE PRESENTED AT THE REFERENDUM ELECTION; PROVIDING FOR TITLE LANGUAGE AND EXPLANATORY LANGUAGE FOR THE BALLOT; PROVIDING FOR NOTICE OF ADVERTISEMENT OF SAID REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE CODE OF ORDINANCES, THE CHARTER OF THE TOWN AND THE STATE OF FLORIDA ELECTION CODE; PROVIDING FOR SUBMISSION OF AMENDMENTS TO THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Town Commission of the Town of Lauderdale-By-The-Sea has determined that it is in the best interest of the citizens of the Town to submit to the electorate a referendum question, which if passed, would have the effect of establishing a maximum height for buildings within the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. The foregoing whereas clause is true and correct and is now ratified and confirmed by the Town Commission.

SECTION 2. There is hereby created a new section 277 of the Town Charter to read as follows:

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Words in underscored type are additions.

Section 277 MAXIMUM HEIGHT FOR BUILDINGS ESTABLISHED.

1. No building within the Town shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, excluding elevator shafts and/or stairways. The maximum height for all other buildings within the Town shall be thirty-three (33) feet above grade, excluding elevator shafts and/or stairways. For the purposes of this provision of the Charter, a story is above grade if its ceiling is above grade.

2. In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall be used for parking, either with or without toll collection booths. The first story may also be used for storage, refuse, security, registration, maintenance, and/or access, either with or without a lobby, provided that at least one-half (1/2) of the square footage of the first story is used for parking. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. For the purposes of this provision of the Charter, a story is at grade level if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one or more subterranean stories below grade, provided, however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.

3. All existing buildings within the Town that either exceed the maximum building height limit established in paragraph 1, above, of this provision of the Charter, or that fail to comply with the restrictions on use established in paragraph 2, above, of this provision of the Charter, on the effective date of this Charter amendment (hereinafter referred to as "Non-conforming Buildings"), shall be considered legal, but non-conforming.

4. Notwithstanding the maximum building height limit established in paragraph 1, above, of this provision of the Charter, an existing Non-conforming Building may be replaced by a new Non-conforming Building when, and only when:

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ORDINANCE NO. 399

- A. The existing Non-conforming Building has:
- (i) been destroyed by fire, natural disaster, or other act of God, and
 - (ii) the property owner has submitted and received Town approval of a site plan depicting the replacement building, and
 - (iii) construction of the replacement building is commenced within twelve (12) months of the date of destruction, or
- B. The existing Non-conforming Building is:
- (i) demolished as part of a Town approved redevelopment of the property, and
 - (ii) prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building, and
 - (iii) construction of the replacement building is commenced within six (6) months of the date of site plan approval.
- C. The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs 4(A)(iii) and 4(B)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.
- D. All new Non-conforming Buildings constructed pursuant to the provisions of either paragraph 4(A) or 4(B), above, shall comply with the restrictions on use established in paragraph 2, above, of this provision of the Charter.

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E. The maximum allowable height of any new Non-conforming Building constructed pursuant to the provisions of either paragraph 4(A) or 4(B), above, shall not exceed the original height of the Non-conforming Building which it replaces, plus any additional height which (because of the requirements of State or Federal law, or because of the restrictions on use established in paragraph 2, above, of this provision of the Charter) may be necessary to obtain the same number of habitable stories as was contained in the original Non-conforming Building. Nothing in this provision of the Charter shall be construed to prevent a new Non-conforming Building from being constructed to a lesser height or from containing fewer habitable stories than that of the original Non-conforming Building which it replaces. For the purposes of this provision of the Charter, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one or more persons.

F. The maximum allowable square footage of any new Non-conforming Building constructed pursuant to the provisions of either paragraph 4(A) or 4(B), above, shall not exceed the original square footage of the Non-conforming Building which it replaces, plus any additional square footage which (because of the requirements of State or Federal law, or because of the restrictions on use established in paragraph 2, above, of this provision of the Charter) may be necessary to obtain the same number of habitable square feet as was contained in the original Non-conforming Building. Nothing in this provision of the Charter shall be construed to prevent a new Non-conforming Building from being constructed with either less total square footage or with less habitable square footage than that of the original Non-conforming Building which it replaces. For the purposes of this provision of the Charter, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one or more persons.

5. The maximum building height limits, the restrictions on use and the maximum allowable square footage established in paragraphs 1, 2 and 4, above, of this provision of the Charter, shall be applicable to all real property located within the boundaries of the Town as those boundaries exist on March 10, 1998. However, the maximum building height limits, the restrictions on use and the maximum

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ORDINANCE NO. 399

allowable square footage established in paragraphs 1, 2 and 4, above, of this provision of the Charter, shall not be applicable to any real property annexed into the Town after March 10, 1998.

6. Every resident of the Town shall have standing to enforce the maximum building height limits, the restrictions on use and the maximum allowable square footage established in paragraphs 1, 2 and 4, above, of this provision of the Charter, by means of a suit in equity seeking either mandamus, prohibition, or injunction, or any combination thereof, but nothing in this provision of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.

7. The maximum building height limit established in paragraph 1, above, of this provision of the Charter, supersedes any existing Zoning Ordinance or Land Development Regulation to the extent that said Zoning Ordinance or Land Development Regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraph 1, above, of this provision of the Charter, but nothing in this provision of the Charter shall be construed to supersede, modify or repeal any existing Zoning Ordinance or Land Development Regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraph 1, above, of this provision of the Charter.

8. Nothing in this provision of the Charter shall be construed to limit the power of the Town Commission (and the Town Commission is hereby specifically authorized) to amend the Town's existing Zoning Ordinances and/or Land Development Regulations to establish anywhere within the Town maximum building height limits equal to or lower than that established in paragraph 1, above, of this provision of the Charter. However, the Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs 1 and 4, above, of this provision of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph 2, above, of this provision of the Charter, nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph 4, above, of this provision of the Charter.

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Words in underscored type are additions.

9. The maximum building height limits established in paragraphs 1 and 4, above, of this provision of the Charter, may only be increased by an amendment or repeal of this provision of the Charter. The restrictions on use established in paragraph 2, above, of this provision of the Charter, may only be modified, amended or repealed by an amendment or repeal of this provision of the Charter. The maximum allowable square footage established in paragraph 4, above, of this provision of the Charter, may only be increased by an amendment or repeal of this provision of the Charter. This provision of the Charter may only be amended or repealed by means of a majority vote of the Town's electors at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal election. The amendment or repeal of this provision of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal election is expressly prohibited.

10. This provision of the Charter shall be effective immediately upon adoption by a majority of the electors voting in a referendum to amend the Charter so as to include this provision. Upon adoption, the maximum building height limits, the restrictions on use and the maximum allowable square footage established in paragraphs 1, 2 and 4, above, of this provision of the Charter, shall immediately apply to all real property located within the boundaries of the Town as those boundaries exist on March 10, 1998

SECTION 3. The title of the ballot and explanatory statement setting forth the substance of the proposed Charter Amendment shall appear on the ballot and shall read as follows:

AN AMENDMENT TO THE TOWN CHARTER ESTABLISHING
A MAXIMUM BUILDING HEIGHT.

THIS AMENDMENT ESTABLISHES A MAXIMUM BUILDING HEIGHT OF 44 FEET AND LIMITS BUILDINGS TO NO MORE THAN FOUR STORIES. IN FOUR STORY BUILDINGS, THE FIRST STORY MUST BE USED FOR PARKING. EXISTING BUILDINGS WHICH EXCEED 44 FEET ARE GRANDFATHERED IN AND MAY BE RECONSTRUCTED SUBJECT TO CONDITIONS. RESIDENTS MAY SUE TO ENFORCE THIS MAXIMUM BUILDING HEIGHT LIMIT. IF ADOPTED, THIS MAXIMUM BUILDING HEIGHT LIMIT MAY ONLY BE INCREASED BY REFERENDUM.

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SHOULD THE CHARTER BE AMENDED?

YES _____

NO _____

SECTION 4. The Town Clerk of the Town of Lauderdale-By-The-Sea, Florida is hereby authorized and directed to advertise the referendum election contemplated herein in accordance with the Code of Ordinances of the Town of Lauderdale-By-The-Sea, the Town Charter, and the State of Florida Election Code.

SECTION 5. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith shall and the same are hereby repealed to the extent of such conflict only upon the passage of the referendum.

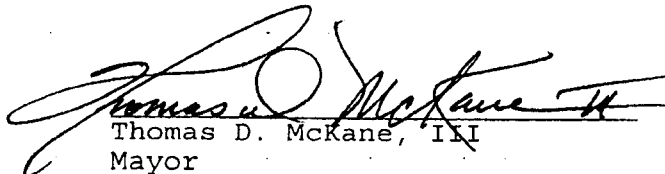
SECTION 6. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and not effecting the validity of the remaining portions of the Ordinance and its application shall remain in full force and effect.

SECTION 7. This Ordinance shall take effect on passage. The amendment of the Town Charter of the Town of Lauderdale-By-The-Sea, provided herein, shall not take effect unless and until the proposed amendment provided herein is submitted to the vote of the electors of the Town of Lauderdale-By-The-Sea at a referendum election to be held in conjunction with the March 10, 1998 municipal election, by separate ballot question.

FIRST READING this 30 day of December, 1997

SECOND READING this 13 day of January, 1998

THIRD, FINAL READING and PASSAGE this 27 day of January, 1998


Thomas D. McKane, III
Mayor

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ORDINANCE NO. 399

	First Reading	Second Reading	Third Reading
Vice-Mayor Parker	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Commissioner Pollock	<u>No</u>	<u>Yes</u>	<u>Yes</u>
Commissioner Fontaine	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Commissioner Yanni	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Mayor Thomas D. McKane, III	<u>No</u>	<u>Yes</u>	<u>Yes</u>

Attest:

Harold P. Dyson
Town Clerk

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MINUTES APPROVING ORDINANCE # 399

01/27/1998 mtg.

Mr. Baldwin said indicated they did not.

Mayor McKane asked if we have checked it out.

Chief Patten said this is a unit right across the street on the west side of Bougainvillea. They have six parking places, and have six apartments. If you get someone who has two cars, they are in trouble. Chief Patten said the request was made on that basis. Chief Patten said these meters produce very little revenue.

Mayor McKane said he would like to see what they do produce, and we should have statistical data. Mayor McKane said this is becoming a snowball, it keeps rolling along. Mayor McKane said no one is able to count the money when they go out there. We do not know what we have until the whole city fund is counted. Mayor McKane asked how do we come up with our estimates.

Town Manager Baldwin responded he is not sure how Mr. Mason arrived at the estimate.

Vice Mayor Parker made a motion to table this item until the next Commission Meeting when Mr. Mason is present. Seconded by Commissioner Pollock, the motion carried unanimously.

VIII. ORDINANCES (1ST READING)

IX. ORDINANCES (Public Hearing - 2nd Reading)

X. ORDINANCES (Public Hearing - 3rd and Final Reading)

A. An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to the Town Charter; providing a maximum building height of forty-four (44) feet for all buildings within the Town; providing that all buildings within the Town shall be limited to no more than four (4) stories; providing that in any building over three (3) stories, the first story shall be used for parking; providing for grandfathering of existing buildings; providing for reconstruction of grandfathered buildings in the event of destruction or redevelopment; providing that residents may sue to enforce this building height limit; providing for limitations on future charter amendments; providing an effective date for the Charter Amendment; providing for form of question to be presented at the referendum election; providing for title language and explanatory language for the ballot; providing for notice of advertisement of said referendum election to be published in accordance with the Code of Ordinances, the Charter of the Town and the State of Florida Election Code; providing for submission of amendments to the Department of State; providing for conflicts, severability and an effective date of this ordinance.

Town Attorney Cherof read the ordinance on third and final reading by title only.

Mayor McKane declared the public hearing open and asked anyone wishing to speak to approach the microphone.

Mayor McKane closed the public hearing with no one wishing to speak.

Vice Mayor Parker made a motion to pass the ordinance on third and final reading. Seconded by Commissioner Pollock, the motion carried unanimously.

IX. RESOLUTIONS

- A. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, vacating a portion of a public right-of-way commonly known as south El Prado and more particularly described in the body of this resolution; setting forth the public benefit of the vacation and providing for an effective date.

Town Attorney Cherof read the resolution by title only.

Vice Mayor Parker asked Town Attorney Cherof if he had the attached legal description because he did not see it in his agenda package.

Town Attorney Cherof responded he did not receive it. It was to be provided by Walter Keller to the Clerk's office.

Commissioner Fontaine made a motion to table this item until the legal description is received. Seconded by Vice Mayor Parker, the motion passed unanimously.

- B. A Resolution of the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, expressing support for the continued sovereign status of the Village of Sea Ranch Lakes; providing an effective date.

Town Attorney Cherof read the resolution by title only.

Vice Mayor Parker made a motion to pass the resolution. Seconded by Commissioner Fontaine, the motion carried unanimously.

XI. TOWN MANAGER REPORT

Town Manager Baldwin said he would like to report on the Broward Legislative Delegation Meeting that he attended last night. Mr. Baldwin said there were two bills addressed by the delegation of interest to the Town. Mr. Baldwin stated it was his understanding that the leadership of both groups were requested to withdraw their bills prior to the meeting because they would not receive the full support of the delegation. The South Beach bill which called for a referendum between Lauderdale-By-The Sea, Fort Lauderdale, and Pompano was withdrawn. The second bill, the Sea Villas Bill, the leadership refused to withdraw the bill, and it was voted down unanimously. For this year, the annexation of South Beach and that area is over. There will not be anything else going on this year as far as the Delegation or

2006 Height Limit Referendum

- **Ordinance #2005-20**
- **Minutes approving #2005-20**
- **Memo from Jim Cherof explaining the referendum**

ORDINANCE # 2005-20

ORDINANCE NO. 2005-20

(Option 4)

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA SUBMITTING TO REFERENDUM AN AMENDMENT TO ARTICLE XIV, SECTION 277 OF THE TOWN CHARTER, AMENDING SECTIONS 5(d) THROUGH 5(f) AND RELATED SECTIONS TO ALLOW THE REPLACEMENT OF EXISTING NON-CONFORMING BUILDINGS WITH MULTIPLE NON-CONFORMING BUILDINGS AND ELIMINATING RESTRICTIONS ON THE SQUARE FOOTAGE OF NON-CONFORMING BUILDINGS THAT ARE REPLACED OR REBUILT, BUT OTHERWISE MAINTAINING HEIGHT LIMITS; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE STATE OF FLORIDA ELECTION CODE; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ON THE MARCH, 2006 MUNICIPAL ELECTION BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, as amended, provides for a methodology of Charter amendments supplementary to and not in conflict with the Charter of the Town of Lauderdale-By-The-Sea ("Town"); and,

WHEREAS, Chapter 166, Florida Statutes, as amended, provides that such an amendment may be submitted to a referendum vote by the Town Commission through the adoption of an Ordinance calling for such a referendum election; and,

WHEREAS, the present Charter provides for height limits by reference to the number of stories that a structure may have and contains limitations regarding permissible use of grade and subterranean stories; and,

WHEREAS, the Town Commission has determined that the provisions of Section 277 of the Charter should apply Town-wide but that the Town Commission should be authorized to grant height variances up to not more than fifteen stories and/or not more than one hundred fifty feet for buildings in the area north of Pine Avenue and east of State Road A1A, an area which contains a significant number of high rise building which were constructed prior to annexation into the Town; and

WHEREAS, the Town Commission has publicly reviewed, considered, and adopted Ordinance 2005-18 on November 22, 2005 which will submit a Charter Referendum question to

Page 1 of 10

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Words in red underscoring type are additions.

the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, at the March, 2006, General Municipal Election; and,

WHEREAS, the Town Commission has considered a request for additional amendment to Section 277 of the Charter to allow the replacement of existing non-conforming buildings with multiple non-conforming buildings and eliminating the square footage limitation imposed when non-conforming buildings are replaced or rebuilt and has determined that a separate referendum question should be submitted to the electorate at the March, 2006 Election; and,

WHEREAS, it is the express intent of the Town Commission that the referendum question submitted pursuant to this Ordinance is to take effect only if passed by a vote of "YES" by a majority of the electorate voting at the March 2006 election and only if the referendum question submitted by Ordinance 2005-18 is also passed by a vote of "YES" by a majority of the electorate voting in that election.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified as being true and correct and incorporated herein by this reference.

SECTION 2. Article XIV, Section 277 of the Town Charter, entitled, "Maximum Height for Buildings Established", if amended by referendum as submitted pursuant to Town Ordinance 2005-18, is hereby further amended as follows:

Sec. 277. Maximum height for buildings established.

- (1) No building within the Town shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade. The maximum height for all other buildings within the Town shall be thirty-three (33) feet above grade.
- (2) As used in this Section of the Charter, the following terms shall have the following meanings:
 - (a) The term "grade" shall mean a horizontal plane twenty-four (24) inches above the crown of the highest roadway adjoining the property on which the building is located.
 - (b) The term "story" shall mean the vertical portion of a building between a floor and a ceiling.

- (c) A story is "above grade" if its ceiling is above grade; a story is "at grade level" if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade
- (d) The term "habitable story" shall mean any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.
- (e) The term "habitable square footage" shall mean the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.
- (f) The term "habitable space" shall mean any area that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.
- (g) The term "height" as applied to buildings shall mean as follows:
 - (i) In the case of buildings with a flat roof, the height of the building shall be the vertical distance from grade to the highest point on the flat roof.
 - (ii) In the case of buildings with a sloped roof, the height of the building shall be the vertical distance from grade to the median elevation between the peak of the sloped roof and the lowest edge of the sloped roof.
 - (iii) In the case of buildings that are partially covered by a flat roof and partially covered by a sloped roof, the height of that portion of the building that is covered by a flat roof shall be the vertical distance from grade to the highest point on the flat roof, and the height of that portion of the building that is covered by a sloped roof shall be the vertical distance from grade to the median elevation between the peak of the sloped roof and the lowest edge of the sloped roof.
 - (iv) In measuring the height of a building, all of the following shall be excluded:
 - (1) Parapet walls and/or railings;
 - (2) Elevator shafts and/or equipment;
 - (3) Stairwells;
 - (4) Air conditioning equipment and/or ventilator shafts;
 - (5) Chimneys and/or smokestacks;
 - (6) Cooling towers;
 - (7) Solar water heaters;
 - (8) Water and/or fuel storage tanks;
 - (9) Electrical generators and/or equipment;
 - (10) Telephone equipment, including, but not limited to, cell phone towers and/or antennae;
 - (11) TV and/or Radio antennae;

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- (12) Satellite dishes;
- (13) Flagpoles;
- (14) Any decorations, landscaping, furniture, fixtures, appliances, machinery, equipment and/or anything else of a non-structural nature that has been approved by the Town Commission as appropriate for placement on the roof of a multi-story building or for attachment to any portion of the structure of a multi-story building;

(v). Nothing in this Section of the Charter shall be construed to limit the power of the Town Commission (and the Town Commission is hereby specifically authorized) to establish, by ordinance, size and height limitations for the items listed in paragraphs (2)(g)(iv)(1) through (2)(g)(iv)(14), above.

- (3) In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall not contain any habitable space, but may be used for one or more of the following purposes: parking, either with or without toll collection booths, storage, refuse, security, recreation, registration, maintenance, and/or access, either with or without a lobby, and where the zoning permits, any permitted or conditional commercial or business use, including, but not limited to, stores, restaurants and offices. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one (1) or more subterranean stories below grade, provided, however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.
- (4) All existing buildings within the Town that either exceed the maximum building height limit established in paragraph (1), above, of this Section of the Charter, or that fail to comply with the restrictions on use established in paragraph (3), above, of this Section of the Charter, on the effective date of this Charter amendment (hereinafter referred to as "Non-conforming Buildings") shall be considered legal, but non-conforming.
- (5) Notwithstanding the maximum building height limit established in paragraph (1), above, of this Section of the Charter, an existing non-conforming building may (subject to any conditions imposed by ordinance enacted pursuant to the provisions of paragraph 5(g) below) be replaced by a new non-conforming building when, and only when:
 - (a) The existing non-conforming building has:

- (i.) Been destroyed by fire, natural disaster, or other act of God; and
 - (ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within twelve (12) months of the date of destruction; or
- (b) The existing non-conforming building is:
- (i) Demolished as part of a Town approved redevelopment of the property; and
 - (ii) Prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within six (6) months of the date of site plan approval.
- (c) The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs (5)(a)(iii) and (5)(b)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.
- (d) The Town Commission may approve a single non-conforming building or multiple non-conforming buildings not separated by a right-of-way to replace a single non-conforming building but the new building or buildings shall be within the same parcel boundaries as the original non-conforming building, as those boundaries existed on October 1, 2001.
- ~~(d)~~(e) All new non-conforming buildings constructed pursuant to the provisions of either paragraph (5)(a), ~~or~~ (5)(b) or (5)(d), above, shall comply with the restrictions on use established in paragraph (3), above, of this Section of the Charter.
- ~~(e)~~(f) The maximum allowable height of any new non-conforming building constructed pursuant to

the provisions of either paragraph (5)(a), ~~or (5)(b) or (5)(d)~~, above, shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (3), above, of this Section of the Charter) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building; Nothing in this Section of the Charter shall be construed to prevent a new non-conforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original non-conforming building which it replaces.

(f) ~~In any new non-conforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, the maximum allowable square footage of that portion of the building above the third habitable story shall not exceed the original square footage above the third habitable story of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law) may be necessary to obtain the same number of habitable square feet as was contained in that portion of the original non-conforming building that was above the third habitable story. Nothing in this Section of the Charter shall be construed to prevent a new non-conforming building from being constructed with either less total square footage or with less habitable square footage than that of the original non-conforming building which it replaces.~~

(g) The Town may, by ordinance, impose conditions on the right to rebuild an existing non-conforming building, which conditions may include (but need not be limited to) any or all of the following:

- (i) Adequate provision for access to the building by fire and emergency vehicles;
- (ii) Adequate provision for pedestrian access to and use of both the beach and ocean by the general public;
- (iii) Building Design guidelines that maximize air-flow to and minimize shadowing on neighboring properties;
- (iv) Impact fees sufficient to offset the costs of any infrastructure improvements that the Town reasonably expects to incur as a result of the proposed development.

(6) Notwithstanding the maximum building height limit established in paragraph (1), above, of this Section of the Charter, in the area north of Pine Avenue and east of State Road

A1A, and in this area only, the Town Commission is herewith authorized to grant a height variance on a case by case basis, to allow buildings of up to (but not more than) fifteen (15) stories and of up to (but not more than) one hundred fifty (150) feet above grade, provided that the Town Commission has first enacted an enabling ordinance setting forth the minimum criteria for granting a height variance, which criteria need not include a finding of hardship and may include (but need not be limited to) any or all of the following:

- (a) Adequate provision for access to the building by fire and emergency vehicles;
- (b) Adequate provision for pedestrian access to and use of both the beach and ocean by the general public;
- (c) Building Design guidelines that maximize air-flow to and minimize shadowing on neighboring properties;
- (d) Impact fees sufficient to offset the costs of any infrastructure improvements that the Town reasonably expects to incur as a result of the proposed development.

Properties in the area north of Pine Avenue and east of State Road A1A that have existing non-conforming buildings may elect to redevelop under either the provisions of this paragraph or under the provisions of paragraph (5), above, of this Section of the Charter.

- (7) Every resident of the Town shall have standing to enforce the maximum building height limits; and the restrictions on use ~~and the maximum allowable square footage~~ established in paragraphs (1), (3), (5) and (6), above, of this Section of the Charter, by means of a suit in equity seeking either mandamus, prohibition, or injunction, or any combination thereof, but nothing in this Section of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.
- (8) The maximum building height limits established in paragraphs (1) and (6), above, of this Section of the Charter, supersedes any existing zoning ordinance or land development regulation to the extent that said zoning ordinance or land development regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraphs (1) and (6), above, of this Section of the Charter, but nothing in this Section of the Charter shall be construed to supersede, modify or repeal any existing zoning ordinance or land development regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraphs (1) and (6), above, of this Section of the Charter.

- (9) Nothing in this Section of the Charter shall be construed to limit the power of the Town Commission (and the - Town Commission is hereby specifically authorized) to amend the town's existing zoning ordinances and/or land development regulations to establish anywhere within the Town maximum building height limits equal to or lower than that established in paragraph (1), above, of this Section of the Charter. However, except as provided in paragraph (6), above, of this Section of the Charter, the - Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs (1), (5) and (6), above, of this Section of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph (3), above, of this Section of the Charter; ~~nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph (5), above, of this Section of the Charter.~~
- (10) The maximum building height limits established in paragraphs (1), (5) and (6), above, of this Section of the Charter, may only be increased by an amendment or repeal of this Section of the Charter. The restrictions on use established in paragraph (3), above, of this Section of the Charter, may only be modified, amended or repealed by an amendment or repeal of this Section of the Charter. ~~The maximum allowable square footage established in paragraph (5), above, of this Section of the Charter, may only be increased by an amendment or repeal of this Section of the Charter.~~ This Section of the Charter may only be amended or repealed by means of a majority vote of the Town's electors at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal election. The amendment or repeal of this Section of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal election is expressly prohibited.
- (11) This Section of the Charter shall be effective immediately upon adoption by a majority of the electors voting in a referendum to amend the Charter so as to include this Section. Upon adoption, the maximum building height limits, and the restrictions on use ~~and the maximum allowable square footage~~ established in paragraphs (1), (3), (5) and (6), above, of this Section of the Charter, shall immediately apply to all real property located within the boundaries of the Town.. For the purposes of Florida Statute 70.001(11), upon adoption, the provisions and/or restrictions of this Section of the Charter (including, but not limited to, the maximum building height limits, and the restrictions on use ~~and the maximum allowable square footage~~ established in paragraphs (1), (3), (5) and (6), above, of this Section of the Charter) shall be deemed to have been immediately applied by the Town to each and every property within the Town.

SECTION 3. The Ballot Title shall be as follows:

MAXIMUM BUILDING HEIGHTS AND NON-CONFORMING BUILDINGS

SECTION 4. The following question shall be placed on the ballot for consideration by the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, at the March, 2006, Municipal Election in Broward County, Florida. The election ballot question shall read as follows:

If the proceeding ballot referendum question is approved by the voters, should Charter Section 277 be further amended to allow existing nonconforming buildings taller than four stories to be replaced with single or multiple nonconforming buildings taller than four stories provided they are within the same parcel boundaries that existed on 10/1/01 and to delete language which limits the square footage of nonconforming buildings that are replaced or rebuilt, but to otherwise maintain height limits?

YES _____

NO _____

SECTION 5. The revised charter language proposed herein shall only become a part of the Charter of the Town of Lauderdale-By-The-Sea, Florida if a majority of electors voting at the March 2006 election vote "YES" on the above referendum election question and also vote "YES" on the ballot question submitted by Ordinance 2005-18.

SECTION 6. That the Town Clerk is hereby directed to insure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the amendments if approved.

SECTION 7. The Town Clerk of the Town of Lauderdale-By-The-Sea is hereby authorized and directed to advertise the referendum election contemplated herein in accordance with the State of Florida Election Code, as well as the Town's Charter and Code of Ordinances.

SECTION 8. All Ordinance or parts of Ordinance in conflict herewith, be and the same are repealed to the extent of such conflict.

SECTION 9. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part

shall be considered as eliminated and in no way effecting the validity of the other provisions of this Ordinance.

SECTION 10. This Ordinance shall become effective immediately upon its passage and adoption.

SECTION 11. This Ordinance has been passed as follows:

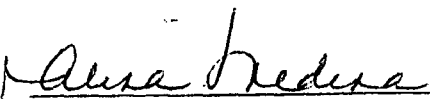
Passed on the first reading, this 24th day of December, 2005.

Passed on the second reading, this 9th day of January, 2006.


Mayor Oliver Parker

	First Reading	Second Reading
Mayor Oliver Parker	<u>no</u>	<u>no</u>
Vice-Mayor Kennedy	<u>yes</u>	<u>yes</u>
Mayor Pro Tem Clark	<u>yes</u>	<u>yes</u>
Commissioner Wessels	<u>no</u>	<u>no</u>
Commissioner Yanni	<u>yes</u>	<u>yes</u>

Attest:


Alina Medina, Town Clerk

**MINUTES APPROVING
ORDINANCE # 2005-20**

5. DISCUSSION ITEM

- A. Discussion and/or action regarding the inclusion of two (2) Charter amendments proposed by the Citizen's Initiative Committee for placement on the March or November Ballot

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to place the two Citizen's Initiative Committee amendments on the November Ballot, and directing the Town Attorney to challenge the trial Court's ruling in McIntee vs. Town of Lauderdale-By-The-Sea by all available legal means. In a roll call vote, the motion carried 3-2, with Vice Mayor Kennedy and Commissioner Wessels dissenting.

4. ORDINANCES (2nd Reading) PUBLIC HEARING

- A. **Ordinance No. 2005-20:** An ordinance of the Town of Lauderdale-By-The-Sea, Florida, submitting to referendum an amendment to Article XIV, Section 277 of the Town Charter, amending Sections 5(d) through 5(f) and related sections to allow the replacement of existing non-conforming buildings with multiple non-conforming buildings and eliminating restrictions on the square footage of non-conforming buildings that are replaced or rebuilt, but otherwise maintaining height limits; providing for a notice of an advertisement of the referendum election to be published in accordance with the State of Florida Election Code; providing that this ordinance, when adopted, shall be submitted to the qualified electors of the Town of Lauderdale-By-The-Sea, Florida, on the March 2006 Municipal Election Ballot and shall become effective as provided by law; providing for conflicts; providing for severability; and providing for an effective date.

Attorney Cherof read Ordinance 2005-20 by title only for second reading.

Mayor Parker opened the public hearing.

Jerome McIntee, 1612 SE 21 Avenue, hoped the Town would respect the wishes of the people.

M. Ross Shulmister, 590 SE 12 Street, Pompano Beach, was concerned with the effects of the Ordinance as it pertained to the Burt J. Harris Act.

Tom Carr, 254 Miramar Avenue, spoke in opposition of Ordinance 2005-20.

Gretel McCausland, 251 Oceanic Avenue, spoke against the Charter amendment and expected the Commission to vote against it.

Dale Cooper, 219 Codrington Drive, was opposed to Ordinance 2005-20 and suggested the Commission not proceed with this action.

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Johnny Leachman, 245 Oceanic Avenue, believed the Ordinance was too vague and did not support it as it was currently written.

Peter Debs, 1010 S. Ocean Boulevard, Pompano Beach, favored Ordinance 2005-20 and believed the Ordinance served a purpose, but only a vote by the people could make the decision.

Commissioner Yanni inquired as to whether Mr. Debs intended to build 5-over-1 on the Holiday Inn site, which currently had a 5-story building, and if the three adjacent parcels would remain as 3-over-1 structures. Mr. Debs replied affirmatively.

Mayor Pro Tem Clark inquired as to the existing square footage of the Holiday Inn site and what Mr. Debs envisioned during redevelopment. Mr. Debs replied that the site currently had approximately 75,000 square feet, and would probably expand to 120,000 square feet. Mr. Debs explained that what they would be building on Vila Capri, Atlantic A1A, and the beach, all together created a critical number for the square footage that had to be above 260,000 square feet in order for the hotel owner to make money. He added that the way the Charter was written they could not get above 215,000 square feet.

Kristen Cavanuagh, 4620 Bougainvillea Drive, stated that she was there to represent the younger people in Town, stating she liked Lauderdale-By-The-Sea the way it was.

Christy Furth, 4525 El Mar Drive, requested clarification as to who proposed the language in the proposed amendment. Attorney Cherof said he had prepared several options and discussed the proposed language with Mayor Pro Tem Clark. Ms. Furth asked Mayor Pro Tem Clark the reason for his request and Mayor Pro Tem Clark said it was to clarify the language as to what was the intent of the ordinance.

Sue Delegal, 1741 W. Terra Mar Drive, understood the intent was to remove the square footage restriction, allowing the replacement of an existing non-conforming building with one or more buildings to the height only of that existing non-conforming building on the original parcel of property. She was, therefore, in favor of Ordinance 2005-20.

Joe Corral, 222 N. Tradewinds Avenue, was against the proposed ordinance.

Lawrence Campbell, 6000 N. Ocean Boulevard, was against placing the amendment on the March ballot.

Michael Arker, 5100 N. Ocean Boulevard, requested a moment of prayer for Laura Ward.

Stewart Dodd, 232 Imperial Lane, expressed his disfavor with the Ordinance and wanted to see the Citizens Initiative Committee's proposal on the March ballot.

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John Thompson, 4900 N. Ocean Boulevard, opposed the proposed Ordinance. He referenced an article in the Town Topics, expressing his belief that the article was written in error. He requested a retraction. Mayor Parker agreed that perhaps the article was incorrect.

There was a consensus, 4-1, to direct the Town Administration to print a retraction in the next Town Topics if it was found that an error was indeed printed.

Howard Camack, 550 SE Boca Raton, assured the Commission that, per their surveys, the community wants a hotel industry.

With no one else wishing to speak, Mayor Parker closed the public hearing.

The Commission recessed at 9:00 p.m. and reconvened at 9:08 p.m.

Vice Mayor made a motion, seconded Mayor Pro Tem Clark, to approve Ordinance 2005-20 on second reading.

Vice Mayor Kennedy questioned whether the Commission could expand on the perimeters. Attorney Cherof said they could not under the current ordinance or under the proposed language.

Commissioner Clark suggested amending the language on page 5 of 10, item D, to read: The Town Commission may approve a single non-conforming building, or multiple non-conforming buildings to replace a single non-conforming building, but the new building, or buildings, shall be within the same parcel boundaries as the original non-conforming building as those buildings existed on October 1, 2001; subject to zoning regulations and Town Commission approved site plan conditions.

Attorney Cherof said he preferred to follow "multiple non-conforming buildings" with language to include "not separated by right-of-way", and change buildings to boundaries to read "the original non-conforming building as those boundaries existed".

Mayor Pro Tem Clark made a motion, seconded Commissioner Yanni, to amend Ordinance 2005-20 as noted in page 5 of 10, Item D, option 4.

The Commission discussed the amendment regarding the clarity the Ordinance's intent; the effects on existing zoning; and the intent behind grand-fathering.

Mayor Parker believed the existing non-conforming building should have the right to be rebuilt and requested the removal of the language "subject to zoning regulations and Town Commission approved site plan conditions".

Attorney Cherof said that particular language neither added nor removed any rights, and that it simply made a blanket statement subject to zoning regulation and Town

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Commission site plan approval. Commissioner Clark and Commissioner Yanni agreed to omit that language.

Attorney Cherof read the clause as amended; "The Town Commission may approve a single non-conforming building, or multiple non-conforming buildings, not separated by right-of-way, to replace a single non-conforming building, but the new building, or buildings, shall be within the same parcel boundaries as the original non-conforming building as those boundaries existed on October 1, 2001."

In a roll call vote, the motion carried 3-2, with Commissioner Wessels and Mayor Parker dissenting.

At Mayor Pro Tem Clark's request, the Commission discussed amending the language of the proposed amendment. Mayor Parker read the proposed amendment as indicated on page 8 of 9: "If the preceding ballot referendum question is approved by the voters, should Section 277 of the Charter be further amended to allow existing non-conforming buildings that are taller than 4 stories, to be replaced with single or multiple non-conforming buildings that are taller than 4 stories, and to delete language which limits the square footage of non-conforming buildings that are replaced or rebuilt, but to otherwise maintain height limits".

Mayor Pro Tem Clark made a motion, seconded by Commissioner Yanni, to amend the amendment as noted on page 8 of 9.

In a roll call vote, the motion carried 4-1, with Commissioner Wessels dissenting.

The Commission discussed the Ordinance and offered their reasons for supporting it, such as planning for changes that would benefit the Town, providing for better designs, and allowing the tourist / business community to flourish.

Commissioner Yanni said he favored Ordinance 2005-20 as it did not raise height limits all over Town. He advised that the addition of a first class hotel in Town would bring in approximately \$1.5 to \$1.6 million in tax dollars. He said if tax dollars aren't brought into the community, homeowners' taxes would continue to increase.

Mayor Parker said a local newspaper wrote an editorial regarding the special meeting held on December 24, 2005, and suggested he should have canceled his prepaid trip in order to have the meeting on December 27, 2005. Mayor Parker explained the reason he called the meeting on the 24th was because he believed the amendment gave the wrong impression as to how the Town operated. He said it suggested the Commission would do anything a developer, or land speculator, requested. Mayor Parker said, in essence, the special meeting was called because the developer wanted it, and, at the developer's request, the Town waived their rules and procedures for second readings on an Ordinance. He believed the Commission was giving a false impression to the community, as once again, the Commission was having yet another special meeting at

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the developer's request. Mayor Parker said special meetings were called solely for emergencies, and this Ordinance, in his opinion, was not an emergency.

Mayor Parker said the Town was in the process of creating a Community Redevelopment Agency. He said that the members of the Community Redevelopment Agency were not pleased that they would be denied the opportunity to look at this area.

Mayor Parker did not believe the action being taken was necessary to save the downtown area. He felt that by shifting the focus of the businesses from tourist only, the downtown would survive quite well. He said he preferred a hospitality industry, but not at the price of losing the uniqueness of Lauderdale-By-The-Sea.

Mayor Parker said the Town entered a pre-annexation agreement with North Beach before North Beach became part of the Town. He said three main areas of contention in that agreement had been addressed; financial, fire services, and building height. Mayor Parker affirmed that it was agreed that 3-over-1 height limits would not be imposed in the north section of Town, and the residents in the north would not interfere with, or change, the 3-over-1 height limit in the south section of Town. He further stated that the Town would be in violation of the pre-annexation agreement. Mayor Parker stated that half of the people that want, or signed the petition to allow 3-over-1 height limitations in the north, are from the north section of Town and that not a single person from the south asked to tamper with 3-over-1 in the south.

Mayor Parker said Commissioner Clark and Vice Mayor Kennedy did not live in the south section of Town and should not have a say in what 3-over-1 is like in the south. He stated that this amendment raised height limits in Old Town. He explained that this amendment says that if you tear down one building, as many buildings that would fit on that property would be allowed to be constructed.

Vice Mayor Kennedy disagreed with Mayor Parker that a developer had called a special meeting, explaining that since one of the Commissioners had wanted further clarification of the ordinance, he was allowed to call a special meeting. He talked about the annexation agreement and that his only interest was the unification of the Town, and referred to the municipal sewer project, stating it was environmentally desirable for the entire Town.

Commissioner Yanni asked Mayor Parker why he was against the petition going on the March ballot. Mayor Parker replied that he had proposed 3-over-1 town wide be placed on the ballot last November, and Sue Delegal, Vice Mayor Kennedy, Commissioner Yanni, and Mayor Pro Tem Clark, noted that would violate the pre-annexation agreement.

On a roll call vote, the motion carried 3-2, with Commissioner Wessels and Mayor Parker dissenting.

**MEMO FROM JIM CHEROF
EXPLAINING THE REFERNEDUM**

Discussion followed as to the exact beach area off El Prado Avenue, the hours and days chosen. Director Mason agreed to supply all the specifics at the next meeting. Attorney Cherof advised that either an Ordinance or an amendment to the existing Ordinance would be required. Manager Baldwin said he would provide the City of Fort Lauderdale regulations as a model to prepare a draft Ordinance.

Vice Mayor Yanni asked how the beach would be cleaned. Director Mason advised that the City of Fort Lauderdale cleaned their beaches the same way Lauderdale-By-The-Sea did. He added that signs are posted requiring that people clean up after their animals or fines would be imposed.

Commissioner McIntee modified his motion, seconded by Vice Mayor Yanni, to include that specifics be clarified and an amended ordinance be generated and brought before the Commission at the April 11, 2006 meeting for consideration.

In a roll call vote, all voted in favor. The motion carried 5-0.

16. TOWN MANAGER REPORT

Manager Baldwin announced that the general budget would be up for discussion at the next meeting. He invited the Commission to his office to review any items of interest or concern.

17. TOWN ATTORNEY REPORT

A. Report regarding Charter amendment and its affects on the Town

Attorney Cherof distributed a memorandum with two documents attached, and attached hereto as part of these minutes. He referred to attachment one, the revised Charter, and talked about Section 7.1 as modified by the Charter Amendment on page 18. Attorney Cherof gave a brief explanation of the second document, the petition to amend the Charter. He said a Resolution by the Commission, authorizing the Town Clerk to forward the Charter Amendment to the Secretary of State, would be presented at the April 11, 2006 meeting.


B. Request for Shade Session - Sea Colony vs. Town of Lauderdale-By-The-Sea, Florida, Case Number 05-14142 (09).

Attorney Cherof explained that this item was the lawsuit that the judge ruled in favor of the property owner and indicated that the moratorium that the Town announced took effect the day after they submitted their site plan application and the Commission was required to actually process their site plan application. He said the Town had taken an appeal of that action and requested a closed door session with the newly configured Commission to talk about the options. Attorney Cherof said the closed door session would last approximately forty five minutes and would be attended by the Commission, the Town Manager, and himself.

TOWN OF LAUDERDALE-BY-THE-SEA

MEMORANDUM

TO: Mayor Oliver Parker
Members of the Town Commission
Bob Baldwin, Town Manager

FROM: James A. Cherof, Town Attorney 

RE: March 2006 Charter Amendment

DATE: March 28, 2006

Pursuant to §166.031(2), Florida Statutes, the Town Commission shall have the Charter amendment which was approved by a majority of the electors voting in the March 14, 2006 election, incorporated into the Charter and shall file the revised Charter with the Department of State. To that end I have prepared for your review the revised Charter, a copy of which is attached.

The amended Charter section 7.1 (formerly section 277) tracks the language as set forth in Section 1 of the petition to amend the Town Charter that was filed with the Town Clerk on November 28, 2005. Please note that I have not included the language which was set forth in Section 4 of the petition as it was not indicated in the citizens' petition that Section 7.1 (formerly section 277) of the Charter was being amended to include that language.

Attachments: Revised Charter
Citizens' Petition

CHARTER OF THE TOWN OF LAUDERDALE-BY-THE-SEA
Revise March 2006

ARTICLE I. TRANSITION FROM ABOLISHED TOWN

Sec. 1.1 Abolishing existing municipality.

That the existing municipal government of the Town of Lauderdale-By-The-Sea, in the County of Broward and State of Florida, be and the same is hereby abolished. All of the provisions of Chapter 14184, Laws of Florida of 1929, Chapter 24658, Laws of Florida of 1947, and all other laws pertaining to the creation of the Town of Lauderdale-By-The-Sea be and the same are hereby repealed.

Sec. 1.2 Title to property reserved.

That the title, rights and ownership of all property, both real and personal, uncollected taxes, dues, claims, judgments, decrees, choses in action and all property and property rights held or owned by the municipalities named "Town of Lauderdale-By-The-Sea," abolished by this act, shall pass to and be vested in the municipal corporation organized under this Charter to succeed the municipality abolished.

Sec. 1.3 Obligations unimpaired.

That no obligations or contracts of the said municipality hereby abolished, including bonds heretofore issued or any proceeding heretofore begun for any improvement, or for borrowing of money, or issuing of bonds, shall be impaired or avoided by this Charter, but such debts, obligations, contracts and bonds shall pass to and be binding upon the new municipality hereby created and organized, and all such proceedings heretofore begun for the construction of any improvements or for the borrowing of money or issuing of bonds may be continued and completed and binding upon the said new municipality; and likewise all debts of and claims against the abolished municipality shall be valid against the new municipality created.

Sec. 1.4 Officers held over.

All officers and employees heretofore elected or appointed and holding office under the said municipality hereby abolished, shall continue to hold their respective offices and discharge the respective duties thereof under the new municipality hereby created until their successors are elected and qualified under the provisions of this Charter.

Sec. 1.5 Ordinances not impaired.

All existing ordinances and resolutions of said abolished municipality, including the printed Code of Ordinances of the Town of Lauderdale-By-The-Sea, as amended, not in conflict

Revised to incorporate March 2006 amendment by referendum of Section 7.1
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with the provisions of this Charter, shall continue in effect unless repealed, amended, or modified by the municipality which is hereby organized or created.

Sec. 1.6 Establishment of new municipality; streets, highways, public grounds.

The inhabitants of the Town of Lauderdale-By-The-Sea, as its boundaries are hereinafter established and designated, or as may hereinafter be established and designated shall continue to be a body politic and corporate, to be known and designated as "Town of Lauderdale-By-The-Sea," and as such shall have a perpetual succession, may use a common seal, may contract and be contracted with, and may sue and be sued in all the courts of this state and in all matters whatsoever. That all lands heretofore dedicated for the use of the public for streets, highways, parks or public grounds, and all authorized changes or amendments thereto approved by the Board of County Commissioners of Broward County, Florida, whether by plat, act, or otherwise, are hereby vested in the Town of Lauderdale-By-The-Sea, and the control and jurisdiction thereof shall hereafter be vested in the Town Commission of the Town of Lauderdale-By-The-Sea.

Sec. 1.7 Plat approved.

The recorded plats of the subdivision of Lauderdale-By-The-Sea, as recorded in plat book 6, page 2, and the plat of Lauderdale Surf and Yacht Estates as recorded in plat book 22, page 46 of the public records of Broward County, Florida, are hereby approved.

ARTICLE II. CORPORATE POWERS

Sec. 2.1 Legal Title

This Charter is the Charter of the Town of Lauderdale-By-The-Sea, a municipal corporation of the State of Florida.

Sec. 2.2 Boundaries.

The following shall be the territory, the inhabitants of which are hereby established and organized into a municipal corporation, and over which such municipal corporation shall exercise its jurisdiction and powers, as may be amended from time to time in accordance with State law, to wit:

Beginning at the intersection of the south boundary line of Section 7, Township 49 South, Range 43 East with the centerline of the Intracoastal Waterway (Florida East Coast Canal), the POINT OF BEGINNING; THENCE in a northerly direction along the centerline of the Intracoastal Waterway to the intersection of said centerline with a line located twenty-five (25) feet south of and parallel to the north line of Section 7, Township 49 South, Range 43 East; THENCE in an easterly direction along a line located twenty-five (25) feet south of and parallel to the north line of said Section 7 to the intersection of said line with the east right-of-way line of the Intracoastal Waterway; THENCE in a northerly direction along

the east right-of-way line of the Intracoastal Waterway to the intersection of said east right-of-way line with the southwest corner of Lot 1, Block 16 of TERRA MAR ISLAND ESTATES, SECOND ADDITION, as recorded in Plat Book 31, Page 20 of the Public Records of Broward County, Florida; THENCE in an easterly direction along the south line of said Lot 1, Block 16 to the southeast corner of said Lot 1, Block 16; THENCE in a northerly direction along the east line of said Lot 1, Block 16 to the intersection of said east line with the westerly extension of the south line of Block 12 of said TERRA MAR ISLAND ESTATES, SECOND ADDITION; THENCE in an easterly direction along the westerly extension of the south line of said Block 12, along the south line of said Block 12 and along an easterly extension of said south line to the intersection of said extended line with the west line of Lot 1, Block 15 of said TERRA MAR ISLAND ESTATES, SECOND ADDITION; THENCE in a southerly direction along the west line of Lot 1, Block 15 and along the west line of Lot 10, Block 11 of TERRA MAR ISLAND ESTATES, FIRST ADDITION as recorded in Plat Book 31, Page 10 of the Public Records of Broward County, Florida to the southwest corner of said Lot 10, Block 11; THENCE in an easterly direction along the south line of said Lot 10, Block 11 and along an easterly extension of said south line to the intersection of said extended line with the centerline of Spanish River; THENCE in a southerly direction along the centerline of the Spanish River to a point thirteen hundred and fifty (1,350) feet south of the north line of the Southeast One-Quarter (SE 1/4) of said Section 6, Township 49 South, Range 43 East; THENCE in a southerly direction for two hundred (200) feet to a point on a line located fifteen hundred and fifty (1,550) feet south of and parallel to the north line of the Southeast One-Quarter (SE 1/4) of said Section 6, said point being eleven hundred, twenty-seven and forty-three-hundredths (1,127.43) feet east of the east right-of-way line of the Intracoastal Waterway; THENCE in an easterly direction along the line located fifteen hundred and fifty (1,550) feet south of and parallel to said north line of the Southeast One-Quarter (SE 1/4) of said Section 6 to the intersection of said line with the east right-of-way line of State Road A-1-A; THENCE in a northerly direction along the east right-of-way line of State Road A-1-A to the intersection of said east right-of-way line with a line located eight hundred and fifty (850) feet south of and parallel to the north line of the Southeast One-Quarter (SE 1/4) of said Section 6; THENCE in an easterly direction along said parallel line and an easterly extension of said line, through Government Lot 2, Section 5, Township 49 South, Range 43 East to the intersection of said extended line with the Ordinary Low Watermark of the Atlantic Ocean; THENCE, continue in an easterly direction along said parallel line a distance of 3 miles (15,840 Ft) to the intersection of said extended line with the eastern boundary of the State of Florida; THENCE in an southerly direction along said eastern boundary of the State of Florida to the intersection with a line located three hundred and eighty (380) feet north of and parallel to the south line of the Northeast One-Quarter (NE 1/4) of the Southeast One Quarter (SE 1/4) of Section 7, Township 49 South, Range 43 East; THENCE in a westerly direction along said parallel line to the intersection of said line with the west right-of-way line of State Road A-1-A; THENCE in a northerly direction along the west right-of-way

line of State Road A-1-A to the intersection of said west right-of-way line with the north line of the Southeast One-Quarter (SE 1/4) of Section 7, Township 49 South, Range 43 East; THENCE in a westerly direction along the north line of the Southeast One-Quarter (SE 1/4) and the Southwest One-Quarter (SW 1/4) of Section 7, Township 49 South, Range 43 East to the intersection of said north line with the east right-of-way line of the Intracoastal Waterway; THENCE in a southerly direction along the east right-of-way line of the Intracoastal Waterway to the intersection of said east right-of-way line with the south line of Section 7, Township 49 South, Range 43 East; THENCE in an easterly direction along the south line of Section 7, Township 49 South, Range 43 East to the intersection of said south line with the west line of the right-of-way of State Road A-1-A; THENCE in a northerly direction along the west line of the right-of-way of SR A-1-A to the intersection of said west line with a line located one hundred eighty (180) feet north of and parallel to the south line of the North One-Half (N 1/2) of the Southeast One-Quarter (SE 1/4) of Section 7, Township 49 South, Range 43 East; THENCE in an easterly direction along a line located one hundred eighty (180) feet north of and parallel to the south line of the North One-Half (N 1/2) of the Southeast One-Quarter (SE 1/4) of Section 7, Township 49 South, Range 43 East to the intersection of said parallel line with the Ordinary Low Watermark of the Atlantic Ocean; THENCE continue in an easterly direction along said line located one hundred eighty (180) feet north of and parallel to the south line of the North One Half (N1/2) of the Southeast One Quarter (SE 1/4) of Section 7, Township 49 South, Range 43 East for a distance of 3 miles (15,840 ft) to the intersection of said parallel line with the eastern boundary of the State of Florida; THENCE in a southerly direction along the said eastern boundary of the State of Florida to the intersection with the extension of south boundary line of Section 18, Township 49 South, Range 43 East; THENCE in a westerly direction along the extension of the south boundary line of Section 18, Township 49 South, Range 43 East to the intersection of said south boundary line with the centerline of the right-of-way of the Intracoastal Waterway; THENCE in a northerly direction along the centerline of the right-of-way of the Intracoastal Waterway to the intersection of said centerline with the north boundary line of Section 18, Township 49 South, Range 43 East, the POINT OF BEGINNING.

Sec. 2.3 Definitions

As used in this Charter, the following words shall have the following meanings:

- (1) The words "abolished municipality" shall mean the municipality formerly existing under the provisions of Chapter 14184, Laws of Florida of 1929, and Chapter 24658, Laws of Florida of 1947.
- (2) The words "new municipality" shall mean the municipality established and created by this act, as may be amended from time to time.

- (3) The masculine pronoun shall designate and include the feminine, and the neuter, where the meaning so permits.
- (4) The word "person" used herein in the masculine gender, shall mean a male or female person, or legal corporate entity.
- (5) The word "municipality" herein shall refer to the municipality of the Town of Lauderdale-By-The-Sea, unless otherwise indicated.
- (6) The words "Town Commission" shall refer to the Town Commission of the Town of Lauderdale-By-The-Sea, Florida.

Sec. 2.4 Seal.

The official seal of the Town of Lauderdale-By-The-Sea hereby established shall bear the legend "Town of Lauderdale-By-The-Sea, Broward County, Florida, Seal, 1947."

Sec. 2.5 Jurisdiction.

The jurisdiction and powers of the Town of Lauderdale-By-The-Sea shall extend over all streets, alleys, sewers, parks, and all lands within said area, whether platted or unplatted, and the air above same; and to and over all waters, waterways, streams, bays, bayous, submerged lands, water bottoms and wharves; and to and over all persons, firms, and corporations, property and property rights, occupations, businesses and professions whatsoever within said boundaries.

The title to and jurisdiction over all streets, thoroughfares, parks, alleys, public lots, sewers, within the Town, and all other property and municipal plants of the Town now owned, possessed or operated by it, and all property of every kind and character which the Town may hereafter acquire within or outside the Town, or which may vest in it, or be dedicated to it, for its use or for the public use, shall be vested in the Town of Lauderdale-By-The-Sea, as created under this Charter.

Sec. 2.6 General Powers

The Town of Lauderdale-By-The-Sea is hereby created, established and organized, and shall have full power and authority to exercise all of the powers of local self-government and to do whatever may be deemed necessary or proper for the safety, health, convenience or general welfare of the inhabitants of said Town; to exercise full police powers; to do and perform all acts and things permitted by the laws of the State of Florida, and comprehend as duties in the performance of anything recognized as a "municipal purpose," whether now existing and recognized, or hereafter recognized as a municipal purpose by statute law or court decision. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the Town of Lauderdale-By-The-Sea shall have and may exercise all other powers under the Constitution and Laws of Florida.

In addition, the Town has the authority to codify its ordinances into a Code of Ordinances of the Town of Lauderdale-By-The-Sea, and by a single ordinance to adopt such "Code of Ordinances of the Town of Lauderdale-By-The-Sea" as a complete revision of all existing and applicable ordinances on the date of such adoption; to adopt a decimal system similar to that used in Florida Statutes of 1941, and to amend such Code, once adopted, by reference to any section or sections. The "Code of Ordinances of the Town of Lauderdale-By-The-Sea" of 1940, as amended from time to time, except as modified by this Charter, is declared to be the existing Codified Ordinances of the Town of Lauderdale-By-The-Sea; and such Code of Ordinances may be amended from time to time by reference to any section or sections, and as many sections as desired may be amended by one (1) ordinance. Such "Code of Ordinances of the Town of Lauderdale-By-The-Sea," as amended from time to time, may be revised and codified or recodified, and such revised Code may be adopted by a single ordinance, and upon such revision shall be in full force and effect. The Town Attorney of the Town of Lauderdale-By-The-Sea shall have power and authority to codify any duly adopted ordinance of the Town of Lauderdale-By-The-Sea and assign proper section numbers and headings to various parts of such ordinances, and thereafter such section shall be cited in referring to such ordinances.

Sec. 2.7 Review of Charter Provisions

As often as the Town Commission may deem necessary, but in any event, not less frequently than every twelve (12) years, the terms and provisions of this Charter shall be reviewed.

ARTICLE III. ADMINISTRATION AND LEGISLATION

Sec. 3.1 Commission-manager form of government.

The form of government of the Town of Lauderdale-By-The-Sea, provided for under this Charter, shall be known as the "commission-manager" form of government.

Sec. 3.2 Creation of Town Commission

There is hereby created a Town Commission consisting of five (5) Commissioners, each of whom shall be elected at-large in the manner provided in this Charter. The Mayor-Commissioner and each Town Commissioner shall take and hold office for the term(s) provided in this Town Charter.

Sec. 3.3 Qualifications of Members

Only qualified electors who have resided in the Town of Lauderdale-By-The-Sea for at least six (6) months immediately prior to qualifying for office and who shall have attained the age of eighteen (18) years of age on or before the date the candidate files and qualifies in accordance with this Charter as a candidate for office, shall be eligible to hold the office of Commissioner.

Each Commissioner and candidate for Commissioner shall be elected from the election district in which he or she is domiciled for at least six (6) months immediately prior to qualifying for such

office by the greatest number of votes of all registered electors residing within the Town. Once elected, a Commissioner from an election district shall remain a domiciliary of the election district during his or her term of office. Any Commissioner who shall cease to possess the qualifications required herein shall forthwith forfeit his or her office, except a Commissioner holding office will not have his/her term cut short by the establishment of or subsequent change of district boundary lines.

Sec. 3.4 Standards of conduct; code of ethics.

In addition to the ethical standards of conduct established by general law for elected officials, appointed officials, and employees, the Town Commission may, by ordinance, establish ethical conduct standards for elected officials, appointed officials, and employees of the Town.

Sec. 3.5 Legislative powers.

The legislative powers of the Town shall be vested in and exercised by the Town Commission, consistent with the provisions of the Constitution of the United States of America, the Constitution and statutes of the State of Florida, this Charter, and the laws and ordinances of the Town of Lauderdale-By-The-Sea. Except as otherwise provided in Article IV or elsewhere in this Charter, or by the Constitution or statutes of the State of Florida, the Town Commission may by ordinance or resolution prescribe the manner in which any powers of the said Town shall be exercised.

Sec. 3.6 Non-Interference in Town Administration.

The Town Commission or its members shall not give orders to any Town officer or employee who are subject to the direction and supervision of the Town Manager, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the Town Commission from examining by question and personal observation all aspects of Town government operations so as to obtain independent information to assist the members in the formulation of policies to be considered by the Commission and assure the implementation of such policies as have been adopted. It is the express intent of this provision, however, that such inquiry shall not interfere directly with the regular municipal operations of the Town and that recommendations for change or improvements in Town government operations be made to and through the Town Manager.

ARTICLE IV. INITIATIVE AND REFERENDUM

Sec. 4.1 Power to initiate and reconsider ordinances.

(1) Initiated ordinances. The registered voters of the Town shall have power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it by a referendum vote at a Town election.

(2) **Repeal and amendment of adopted ordinances.** The registered voters of the Town shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal or amend as proposed in the initiative petition an ordinance so reconsidered, to amend or repeal it by a referendum vote at a Town election.

Sec. 4.2 Commencement of initiative.

(1) **Filing with Town Clerk.** A minimum of ten registered electors (voters) of the Town may commence initiative, repeal or amendment proceedings by filing with the Town Clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the petitioners' committee are to be sent, and setting out in full the proposed initiated ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of a petitioners' committee is filed, the Town Clerk may, at the committee's request and at their expense, issue the appropriate petition blanks to the petitioners' committee.

(2) **Review by the Town Attorney.** Prior to circulation, a petition and the proposed ordinance, if any, shall be reviewed as to legal form by the Town Attorney. The Town Attorney's review of a petition package shall not extend to review of the substance of a proposed ordinance, or an ordinance proposed for repeal or amendment, but shall be strictly limited to a review as to legal form. No later than fourteen (14) calendar days from filing date of a petition with the Town Clerk, the Town Attorney shall, by hand delivery or registered mail, inform the petitioners' committee and Town Clerk either that the petition and ordinance, if any, are in proper legal form or, if not, then specifically what measures are required to render them in proper form. Upon request by the petitioners' committee, the Town Attorney will assist the committee to render documents in proper legal form for consideration by the Town Commission, but will not offer legal counsel or opinions to the petitioners' committee or its representative. Failure by the Town Attorney to inform the petitioners' committee and Town Clerk of his or her determination as to form within fourteen (14) calendar days after the petitioner files a petition and proposed ordinance, or petition for reconsideration of an ordinance, with the Town Clerk shall be deemed a determination that the document(s) is/are in proper legal form.

Sec. 4.3 Execution of petitions: requirements.

(1) **Number of signatures.** Initiative and referendum petitions must be signed by registered voters of the Town equal in number to at least ten (10) percent of the total number of those registered to vote in the Town at the last general municipal election.

(2) **Form and content.** All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or required to be reconsidered.

(3) **Affidavit of circulator.** Each paper of a petition shall have attached to it when filed an affidavit by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that

he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or required to be reconsidered:

(4) Filing deadline. All initiative and referendum petitions must be filed with 60 days of the date on which proceedings with respect to such initiatives are commenced.

Sec. 4.4 Filing procedure.

(1) Certificate of Clerk; amendment. Within 20 days after an initiative petition is filed or within five days after a petition for repeal or amendment of an ordinance is filed, the Clerk shall complete a certificate as to its sufficiency (the "Certificate"). Grounds for insufficiency are only those specified in Sec. 4.3 of this Article. If insufficient, the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the petitioners' committee by hand delivery or registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within fourteen (14) calendar days after receiving the copy of the Certificate. Such supplementary petition shall comply with the requirements of Sec. 4.3 of this Article. Within five business days after a supplementary petition is filed, the Clerk shall complete a Certificate as to the sufficiency of the petition, as amended, and shall promptly send a copy of such Certificate to the petitioners' committee by registered mail or hand delivery as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under subsection (2) of this Section 4.4 within the time required, the Clerk shall promptly present the Certificate to the Commission and such Certificate shall then be a final determination as to the sufficiency of the petition.

(2) Commission review as to sufficiency. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two business days after receiving the copy of such Certificate, file a request that it be reviewed by the Commission. The Commission shall then review the Certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.

Sec. 4.5 Action on Petitions.

(1) Action by Town Commission. When an initiative petition or a petition for the repeal or amendment of an existing ordinance has been finally determined to be sufficient, the Town Commission shall promptly consider or reconsider the ordinance. Whether or not the Commission approves at first reading an initiated ordinance, or the repeal or amendment, as proposed, of a referred ordinance, the Commission shall proceed to a second reading at its next scheduled meeting, and shall otherwise comply with all requirements under Sec. 166.041 F. S. for public notice and public hearings prior to the adoption of an ordinance. If the Commission

fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) calendar days, or fails to repeal or amend a referred ordinance in accordance with the initiative petition within thirty (30) calendar days, it shall submit the proposed or referred ordinance to the registered voters of the Town by referendum vote at an election. The referendum vote by registered Town voters shall constitute an "additional requirement for the enactment of ordinances" as specified in paragraph (6) of Section 166.041 F.S., in lieu of and as a greater, increased requirement than the affirmative majority vote of the governing body referred to in paragraph (4) of Sec. 166.041 F. S. If the Commission fails to act on a proposed initiative ordinance or a referred ordinance within the time period specified in this paragraph, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal or amend the referred ordinance on the last day that the Commission was authorized to act on such matter. In that event, the Commission shall nevertheless comply with the public notice and public hearing requirements of Sec. 166.04 F.S. relative to the ordinance in question.

(2) Submission to voters. The vote of the Town on a proposed referred ordinance shall be held not less than ninety (90) days nor more than one hundred twenty (120) days from the date of Commission acted or was deemed to have acted pursuant to paragraph (1) of this section. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election, except that the Commission may, in its discretion provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the Town by filing with the Town Clerk a request for withdrawal signed by at least eight-tenths of the members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 4.6 Results of election.

(1) Initiative. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greater or greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) Repeal and amendment of referred ordinances. If a majority of the registered voters voting on a referred ordinance vote for repeal or for amendment, it shall be considered repealed or amended, as appropriate, upon certification of the election results.

Sec. 4.7 Ordinances affecting initiated ordinances; procedure for adoption.

An ordinance passed as a result of a vote of the registered voters of the Town, whether prior or subsequent to the effective date of this Article, may be repealed or amended only by a similar vote of the registered voters of the Town. The Town Commission may, by resolution, submit to the registered voters of the Town at any regular or special election for a referendum vote, a proposed ordinance to repeal or amend any such ordinance. Notice of the

Town Commission's intention to submit such a proposed ordinance to the registered voters shall be published by the Town Commission no less than ninety (90) days nor more than one hundred twenty (120) days prior to such election, in the manner required for the publication of initiated ordinances. If an amendment is so proposed, such notice shall contain the proposed amendment in full. The Town Commission's submittal of such an ordinance shall be in the same manner, and the vote shall have the same effect as in cases of ordinances submitted to a vote of the registered voters of the Town by popular petition.

ARTICLE V. TOWN OFFICERS AND EMPLOYEES

Sec. 5.1 Vesting of administrative and executive powers.

The executive and administrative powers of the Town, not herein otherwise provided for, shall be vested in and exercised by the following officers:

- (1) Mayor-Commissioner;
- (2) Town Manager;
- (3) Town Attorney;

The Town Manager and Town Attorney shall be appointed by the Town Commission. The Town Commission may by ordinance create, change and abolish offices, department or agencies other than the offices, departments or agencies established by this Charter.

Sec. 5.2 Functions and duties of Mayor-Commissioner.

The Mayor-Commissioner or, in his/her absence or disqualification, the Vice-Mayor or Mayor Pro Tem shall perform the following functions:

- (1) The Mayor-Commissioner shall preside at all meetings of the Town Commission and perform all duties consistent with his/her office, and shall have a voice and vote in the proceedings of the Town Commission, but no veto power. The Mayor-Commissioner shall vote last upon the roll call of Commissioners.
- (2) The Mayor-Commissioner shall use the title of Mayor in any case in which the execution of legal instruments, writings, or other papers so require; but this shall not be considered as conferring upon the Mayor-Commissioner any of the administrative or judicial functions of a Mayor under the general laws of the state, except as herein provided.
- (3) The Mayor-Commissioner shall be recognized as the official head of the Town by the courts for the purposes of serving civil processes; by the government in the exercise of military law; and by the public in general for all ceremonial purposes.

- (4) The Mayor-Commissioner may govern the Town by proclamation, under the direction of the Town Commission, during times of grave public danger or emergency, and the Town Commission shall be judge of what constitutes such public danger or emergency.
- (5) The Mayor-Commissioner shall exercise all the powers and duties of the Mayor-Commissioner as provided in the Charter, as well as all those powers and duties that may be conferred upon the Mayor-Commissioner by the Town Commission in pursuance of the provisions of this Charter.

Sec. 5.3 Town Manager - Appointment, qualifications and compensation.

The Town Commission shall appoint a Town Manager who shall be the administrative head of the municipal government under the direction and supervision of the Town Commission. The Town Manager shall hold office at the pleasure of the Town Commission. The Town Manager shall receive such compensation as determined by the Town Commission through the adoption of an appropriate resolution. The Town Manager shall be appointed by resolution approving an employment contract between the Town and the Town Manager. The Town Manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local public management including, a graduate degree with a concentration in public administration, public affairs, public policy, or public finance and two (2) years' experience as an appointed city manager or county manager, or four (4) years' experience as an assistant or deputy city manager or assistant or deputy county manager.

Sec. 5.4 Town Manager - Absence or disability; removal

During the absence or disability of the Town Manager, the Town Commission may by resolution designate some properly qualified person to temporarily execute the functions of the Town Manager. The person thus designated shall have the same powers and duties as the Town Manager, and shall be known while so serving as "Acting Town Manager." The Town Manager or Acting Town Manager may be removed by the Town Commission at any time.

Sec. 5.5 Town Manager - Powers and duties.

The Town Manager shall be responsible to the Town Commission for the proper administration of all affairs of the Town coming under the Town Manager's jurisdiction, and the Town Manager's powers are and they shall be:

- (1) To see that the laws and ordinances of the Town are enforced.
- (2) To appoint or remove all subordinate officers and employees.
- (3) To exercise, control and direct supervision over all departments and divisions of the municipal government under the classified service, except where otherwise provided.

- (4) To see that all terms and conditions imposed in favor of the Town or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the Town Attorney, whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- (5) To attend all meetings of the Town Commission, with right to take part in the discussions, but without having a vote.
- (6) To recommend to the Town Commission for adoption such measures as the Town Manager may deem necessary or expedient in the interest of the Town.
- (7) To keep the Town Commission fully advised as to the financial conditions and needs of the Town, and at the proper time to submit to the Town Commission for its consideration an annual budget.
- (8) To advise and consult with all officers and official heads of the several departments of the Town relative to the affairs of such department, and to make recommendations to the Town Commission respecting such departments as the Town Manager may see fit.
- (9) To perform such other duties as may be prescribed under this Charter, or may be required of the Town Manager by motion, direction, ordinance or resolution of the Town Commission.
- (10) To prepare and submit to the Town Commission an annual financial audit of its accounts and records, completed no later than six (6) months after the end of its fiscal year by an independent certified public accountant retained by the Town Commission and paid from its public funds.
- (11) To sign all checks, warrants, bonds and agreements issued by the Town of Lauderdale-By-The-Sea.
- (12) To assist the Town Commission to develop long-term goals for the Town and strategies to implement these goals.
- (13) To encourage and provide staff support for regional and intergovernmental cooperation.
- (14) To promote partnerships among the Town Commission, staff, and citizens in developing public policy and building a sense of community.

ARTICLE VI. ELECTIONS

Sec. 6.1 Mayor-Commissioner and Commissioners; term of office; election; transition

- (1) Beginning with the regular election to be held on the second Tuesday in the month of March, 2004, and every four (4) years thereafter, a Mayor-Commissioner shall be elected for a term of four (4) years until his successor is elected and qualifies.
- (2) Commencing with the regular election of the Town held in March, 2006, and continuing with successive elections at intervals of four years, candidates may qualify for the offices of Town Commissioner Seat 1 and Town Commissioner Seat 2, each elected at large. Town Commission Seat 1 and Town Commission Seat 2 shall replace the two Commission seats vacated by the expiration of the term of the two Commissioners in March, 2006. The candidate for Seat 1 shall reside in the north district of the Town. The candidate for Seat 2 shall reside in the south district of the Town. The candidates receiving the most votes for each seat shall be elected, and shall serve a term of four (4) years.
- (3) Commencing with the regular election of the Town held in March, 2008, and continuing with successive elections at intervals of four years, candidates may qualify for the offices of Town Commission Seat 3 and Town Commissioner Seat 4. Town Commission Seat 3 and Town Commission Seat 4 shall replace the two Commission seats vacated by the expiration of the term of two Commissioners in March of 2008. The candidate for Seat 3 shall reside in the north district of the Town. The candidate for Seat 4 shall reside in the south district of the Town. The candidates receiving the most votes for each seat shall be elected, and shall serve a term of four years.
- (4) All elections for the position of Town Commissioner or Mayor-Commissioner shall be held on the second Tuesday of March of each even-numbered year, or as provided for by law.
- (5) The geographic boundary for the northern and southern districts shall be designated, prepared and identified no later than the first of September, 2004, and again in 2012 through a contract entered into by the Town with an accredited four (4) year college or university located within the state of Florida for the purpose of identifying and designating the northern and southern election districts within the Town. The Town Commission district boundaries shall be of equal population, compact, proportional, and logically related to the natural internal boundaries of the neighborhoods within the Town. The principal of nondiscrimination and one person/one vote shall be adhered to strictly.
- (6) In the event no candidate qualifies for election for any designated Town Commission seat within the first ten (10) calendar days of the qualifying period, then any qualified person who resides anywhere in the Town may

qualify for such seat. Thereafter, if no person qualifies for such seat, a vacancy shall be declared and filled in accordance with this Charter.

- (7) The Town Commission shall adopt by Ordinance the creation and establishment of the boundaries of the initial northern and southern Town Commission seat districts no later than January 1, 2005. The Ordinance shall provide for the implementation of said election districts to be effective for the elections to be held in the Town commencing in March, 2006.

Sec. 6.2 Vice-Mayor and acting Mayor Pro-Tem.

On the second Tuesday following each regular election, one (1) member of the Town Commission may be designated, by resolution, as Vice-Mayor to preside in the absence of the Mayor-Commissioner. In the event that the designated Mayor-Commissioner and the Vice-Mayor are absent at any meeting of the Town Commission, any member of the Town Commission may be designated by the Town Commission to act as Mayor Pro-Tem for such meeting.

Sec. 6.3 Qualifications of members of Town Commission.

To be eligible to hold the office of Mayor-Commissioner or Commissioner of the Town of Lauderdale-By-The-Sea, or to qualify for candidacy for Mayor-Commissioner or Commissioner, the individual shall be a bona fide resident and citizen of the Town of Lauderdale-By-The-Sea, shall have resided in the said town for the six (6) months immediately preceding the date of election, shall be a registered voter pursuant to Florida law, and shall be otherwise qualified as provided for in the Charter.

Sec. 6.4 Qualifications of candidates; notice of candidacy; payment of fee.

Any individual who possesses the qualifications as provided in this Charter, may be a candidate for the office of Mayor-Commissioner or Commissioner by filing a verified notice of candidacy for Town Commission with the Town Clerk. Such notice shall be in the following form:

**NOTICE OF CANDIDACY FOR
TOWN COMMISSIONER OR MAYOR-COMMISSIONER**

I, _____(Name of Candidate)_____, residing at _____(Residence Address of Candidate)_____, Lauderdale-By-The-Sea, Broward County, Florida, do hereby give notice of my candidacy for the office of Town Commissioner/Mayor-Commissioner of the Town of Lauderdale-By-The-Sea, Florida, in the forthcoming election to be held in said Town on _____(Date of Primary)_____. I do further state that I am a citizen of the United States of

America, and a resident of the Town of Lauderdale-By-The-Sea; that I have resided in the Town of Lauderdale-By-The-Sea for the six (6) months immediately preceding the date of the election to be held; and that I have fully satisfied all conditions precedent to such candidacy, pursuant to the provisions of the laws of the State of Florida and the Town Charter.

(Candidate's Signature)

STATE OF FLORIDA
COUNTY OF BROWARD

Before me, the undersigned authority, this day personally appeared _____ (Name of Candidate) who, upon being duly sworn, deposed and said: that he/she is the candidate referred to in the foregoing Notice; that he/she is familiar with the contents of said Notice, and that the facts and matters therein stated are true; and that he/she did sign said Notice for the purpose therein specified.

(Candidate)

Sworn to and subscribed before me, this the _____ day of _____, 20__.

Notary Public, State of Florida
My Commission Expires: _____

The individual who files the notice as prescribed, and who pays the qualifying fee as prescribed, if otherwise found to be qualified, shall be entitled to have his/her name printed upon the official ballot at such town election.

Sec. 6.5 Vacancies.

The office of a Commissioner, or the office of the Mayor-Commissioner, shall become vacant upon the person's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office, such forfeiture to be declared by the remaining members of the Town Commission.

Sec. 6.6 Forfeiture of office.

A Commission member, or the Mayor-Commissioner, shall forfeit the office if the person:

- (1) Lacks, at any time during a term of office, any qualification for the office prescribed by this Charter or general law;
- (2) Violates any standard of conduct or code of ethics established by law for public officials;
- (3) Is convicted of a felony while in office;
- (4) Fails to attend four (4) consecutive regular meetings of the Town Commission without being excused by the Town Commission by formal action entered upon the minutes; or
- (5) Becomes incapable of performing the duties of the office for a period of more than three (3) months.

In all circumstances arising under this section, the Town Commission shall be the judge of its own membership.

Sec. 6.7 Forfeiture hearing and process.

A member of the Town Commission charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least thirty days before the scheduled hearing. The Town Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's or Mayor-Commissioner's office, including whether or not good cause for absence has been, or may be, established. The Commissioner in question shall have the burden of establishing good cause for absence; provided, however, that any Commissioner may at any time during any duly held meeting move to establish good cause for his or her absence or the absence of any other Commissioner, from any past, present, or future meeting(s), which motion, if carried, shall be conclusive. A Commissioner whose qualifications are in question, or who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. Any final determination by the Town Commission that a Commissioner or the Mayor-Commissioner has forfeited his or her office shall be made by resolution approved by a unanimous vote of the remaining members of the Town Commission. All votes and other acts of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

Sec. 6.8 Filling of vacancies.

A vacancy on the Town Commission, including the office of Mayor-Commissioner, shall be filled in the following manner:

- (1) If there are less than one hundred eighty (180) days remaining in the unexpired term, or if there are less than one hundred eighty (180) days before the next federal, state, county or Town election, the remaining Commissioners, including

the Mayor-Commissioner, shall, by majority vote, appoint a successor within thirty (30) days of the occurrence of the vacancy from among all qualified applicants. The person or persons so appointed must possess all of the required qualifications to be a member of the Town Commission. The Commissioner or Mayor-Commissioner appointed by the Town Commission to fill the vacancy as specified herein shall serve only until the next federal, state, county, or Town election. Further, the Commissioner or Mayor-Commissioner elected at such election shall serve only the unexpired term of the Commissioner or Mayor-Commissioner whose position became vacant.

- (2) If there are more than one hundred eighty (180) days remaining on an unexpired term, or if there are more than one hundred eighty (180) days before the next federal, state, county, or Town election, the Town Commission shall schedule a special election to be held no sooner than ninety (90) days nor more than one hundred twenty (120) days following the occurrence of the vacancy. The Commissioner or Mayor-Commissioner elected to fill the vacancy at any special election shall serve only the unexpired term of the Commissioner or Mayor-Commissioner whose position became vacant.
- (3) In the event of the death, resignation, or removal of the Mayor-Commissioner, the Vice-Mayor shall forthwith commence to serve as interim Mayor-Commissioner until the position of Mayor-Commissioner is filled by election or appointment. When the Vice-Mayor becomes interim Mayor-Commissioner, the Town Commission, by majority vote shall appoint one of the remaining Commissioners to become interim Vice-Mayor. The Commissioner serving as Mayor-Commissioner, or the Vice-Mayor, shall serve as Commission-Mayor, or Vice-Mayor, until the newly elected or appointed Commissioner-Mayor, or Vice-Mayor, is sworn into office. The interim Mayor-Commissioner, and interim Vice-Mayor shall then return to the positions of Vice-Mayor and Commissioner which he/she previously held to serve the remainder of his or her unexpired term.
- (4) In the event of the death, resignation, or removal of the Vice-Mayor, the Town Commission shall, by majority vote, elect one of the Commissioners to serve as Vice-Mayor.

Sec. 6.9 Extraordinary vacancies.

In the event that all members of the Town Commission are removed by death, disability, or forfeiture of office, the Governor of the State of Florida shall appoint an interim Town Commission that shall call a special election as provided above to fill the vacancies.

ARTICLE VII. PLANNING AND ZONING

Sec. 7.1 Maximum height for buildings established; referendum vote required for increases in zoned residential -district height limits.

- (1) No building within the jurisdictional boundaries of the Town, as they existed on March 20, 2006, shall have more than four (4) stories above grade, and the maximum height of buildings within the Town that have four (4) stories above grade shall be forty-four (44) feet above grade, as defined in the Florida Building Code, or above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, whichever of those two levels is higher. The maximum height for all other buildings within the Town shall be thirty-three (33) feet

(a) above grade, as defined in the Florida Building Code, or

(b) above a horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, or

(c) above the minimum elevation for a habitable, finished floor permitted under applicable federal or Florida state regulations,

whichever of those three levels is highest. Height shall be measured from the applicable base level specified above to the highest point on a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning apparatus shall not be included in determining building height; all other roof structures, including parapet walls, shall not exceed four feet in height above the maximum allowed building height.

- (2) In any building within the Town that has more than three (3) stories above grade, the first story shall be at grade level and shall be used for parking, either with or without toll collection booths. The first story may also be used for storage, refuse, security, registration, maintenance, and/or access, either with or without a lobby, provided that at least one-half (1/2) of the square footage of the first story is used for parking. Only within districts of the Town zoned for business ("B") use, the first story of buildings having more than three (3) stories above grade may also be devoted to non-residential commercial uses, provided that dedicated parking required by Town ordinance or code for the proposed buildings is provided off-street at a location on or adjacent to the property on which the buildings are situate, and designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic. In any building within the Town that has more than three (3) stories above grade, the first story shall be restricted to the above enumerated uses, and may be used for no other purpose whatsoever. For the purposes of this provision of the Charter, a story is at grade level if its floor is at or below grade and its ceiling is above grade; a story that is at grade level is also above grade. Nothing in this paragraph shall be construed so as to prohibit any building within the Town that has more than three (3) stories above grade from also having one (1) or more subterranean stories below grade, provided,

however, that in any building within the Town that has more than three (3) stories above grade, all subterranean stories shall be subject to the same restrictions on use as are established in this paragraph for the first story.

- (3) Buildings which exceed thirty three (33) feet above grade, and which exceed thirty three (33) feet above the horizontal plane eighteen inches above the crown of the roadway at the highest point adjoining the property on which the building is located, but which are nevertheless allowed under subparagraph (1)(c) of this Section, and which do not include a non-habitable first floor with ample parking as required by Town ordinance or code, in accordance with the number and type of units in those buildings, must have dedicated off-street parking at a location on or adjacent to the property on which the buildings are situate. Parking for buildings in this category must be designed so as to enable the parked vehicles to egress the parking space without having to back out into traffic.
- (4) All existing buildings within the Town that were legally in compliance with existing height and use restrictions on March 20, 2006, or were grandfathered on that date, but that either exceed the maximum building height limit established in paragraph (1), above, of this section of the Charter, or that fail to comply, where applicable, with the restrictions on use established in paragraph (2), above, of this section of the Charter, (hereinafter referred to as "Non-conforming Buildings") shall be considered legal, but non-conforming.
- (5) Notwithstanding the maximum building height limit established in paragraph (1), above, of this section of the Charter, an existing non-conforming building may be replaced by a new nonconforming building when, and only when:
 - (a) The existing non-conforming building has:
 - (i) Been destroyed by fire, natural disaster, or other act of God; and
 - (ii) The property owner has submitted and received Town approval of a site plan depicting the replacement building; and
 - (iii) Construction of the replacement building is commenced within twelve (12) months of the date of destruction; or
 - (b) The existing non-conforming building is:
 - (i) Demolished as part of a Town approved redevelopment of the property; and
 - (ii) Prior to demolition, the property owner has submitted and received Town approval of a site plan depicting the replacement building; and

- (iii) Construction of the replacement building is commenced within six (6) months of the date of site plan approval.
- (c) The Town Commission may grant one (1) or more six (6) month extensions to the time periods for commencement of construction established in paragraphs (5)(a)(iii) and (5)(b)(iii), above, provided a written request for extension is filed with the Town Clerk prior to (in the case of a first request for extension) the expiration of the initial applicable time period for commencement of construction or prior to (in the case of a subsequent request for extension) the expiration of the most recent extension of the applicable time period for commencement of construction.
- (d) All new non-conforming buildings constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall comply, where applicable, with the restrictions on use established in paragraph (2), above, and the provisions for parking availability established in paragraph (3), above, of this section of the Charter.
- (e) The maximum allowable height of any new a non-conforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original height of the non-conforming building which it replaces, plus any additional height which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the charter) may be necessary to obtain the same number of habitable stories as was contained in the original non-conforming building. Nothing in this section of the Charter shall be construed to prevent a new non-conforming building from being constructed to a lesser height or from containing fewer habitable stories than that of the original non-conforming building which it replaces. For the purposes of this provision of the Charter, the term "habitable story" means any story or part thereof that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.
- (f) The maximum allowable square footage of any new nonconforming building constructed pursuant to the provisions of either paragraph (5)(a) or (5)(b), above, shall not exceed the original square footage of the non-conforming building which it replaces, plus any additional square footage which (because of the requirements of state or federal law, or because of the restrictions on use established in paragraph (2), above, of this section of the Charter) may be necessary to obtain the same number of habitable square feet as was contained in the original non-conforming building. Nothing in this section of the Charter shall be construed to prevent a new nonconforming building from being constructed either with less total square footage or with less habitable square footage than that of the original non-conforming building which it replaces. For the purposes of

this section of the Charter, the term "habitable square footage" means the square footage of that portion of a building that is used as a home or place of abode, either permanent or temporary, by one (1) or more persons.

- (6) The maximum building height limits, the restrictions on use and the maximum allowable square footage, and the provisions governing parking established in paragraphs (1), (2) (3) and (5), above, of this section of the Charter, shall be applicable to all real property located within the boundaries of the Town as the boundaries exist on March 20, 2006.
- (7) Every resident of the Town shall have the standing to enforce the maximum building height limits and the maximum allowable square footage established in paragraphs (1), (2) and (5), above, of this section of the Charter, by means of a suit in equity seeking either mandamus; prohibition; or any combination thereof, but nothing in this provision of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.
- (8) The maximum building height limit established in paragraph (1), above, of this section of the Charter, supersedes any existing zoning ordinance or land development regulation to the extent that said zoning ordinance or land development regulation establishes anywhere within the Town a maximum building height limit greater than that established in paragraph (1), above, of this section of the Charter, but nothing in this section of the Charter shall be construed to supersede, modify or repeal any existing zoning ordinance or land development regulation that establishes anywhere within the Town a maximum building height limit lower than that established in paragraph (1), above, of this section of the Charter.
- (9) The Town Commission may not increase, by ordinance or by variance, the maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, nor may the Town Commission modify, amend or repeal, by ordinance or by variance, the restrictions on use established in paragraph (2), above, or the provisions for parking availability established in paragraphs (2), (3) or (5), above, of this section of the Charter, nor may the Town Commission increase, by ordinance or by variance, the maximum allowable square footage established in paragraph (5), above, of this section of the Charter. The maximum height limits established for residential zoning districts including, but not limited to, R-5, RS-4, RS-5, RD-10, RM-15, RM-16, RM-25 and PUD in the Town's land development code as of March 20, 2006, may be increased, or such districts re-zoned for any other use whatsoever, only by a referendum vote of the registered voters of the Town in the manner established in Article IV, Section 4.7 [50] of this Charter for the repeal or amendment of initiated ordinances. The Town may not create new categories of zoning without approval of such

categories by a similar referendum vote; and all provisions of such new categories of zoning must be submitted to the voters for approval.

- (10) The maximum building height limits established in paragraphs (1) and (5), above, of this section of the Charter, may be increased only by an amendment to or by repeal of this section of the Charter. The restrictions on use established in paragraph (2), above, and the provisions governing parking availability established in paragraphs (2), (3) and (5), above, of this section of the Charter, may be modified, amended or repealed only by an amendment to or by repeal of this section of the Charter. The maximum allowable square footage established in paragraph (5), above, of this provision of the Charter, may be increased only by an amendment to, or by repeal of this section of the Charter. Except as expressly provided below, this section of the Charter may be amended or repealed only by means of a majority vote of the registered voters of the Town at a referendum election held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal general election. The amendment or repeal of this section of the Charter at a special election held on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal general election is expressly prohibited, except that a special election or special election by mail may be held to correct, to the minimum practicable extent, a provision adjudged by a court of competent jurisdiction to violate the State or Federal Constitution or any valid state or federal law, but only after such adjudication is affirmed on appeal. Amendments approved at a special election may include no elements not directly related to such court adjudication.
- (11) These provisions of the Charter shall be effective immediately upon adoption by a majority of the registered voters of the Town voting in a referendum to amend the Charter so as to include these provisions. Upon adoption, the maximum building height limits, the restrictions on use, the maximum allowable square footage and the provisions governing parking availability established in paragraphs (1), (2), (3) and (5), above, of this section of the Charter, shall immediately apply to all real property located within the boundaries of the entire Town. Upon adoption of these provisions, and pending amendment of any portion or portions of the Town's Code of Ordinances inconsistent with this section of the Charter, the more stringent provisions of this section shall apply.

Sec. 7.2 Restrictions on the vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property.

- (1) As used in this section of the Charter, the term "the El Prado Property" shall refer to the following described real property situate, lying and being in the Town of Lauderdale-By-The-Sea, Florida:

The real property bounded on the west by the eastern boundary line of the Ocean Drive (also known as State Road A1A right-of-way, bounded on the east by the western boundary line of the El Mar Drive right-of-way, bounded on the north by the south boundary line of Lots 1, 2, 3, 4 and 5 of Block 11, and bounded on the south by the north boundary line of Lots 11, 12, 13, 14 and 15 of Block 12, all said Lots, Blocks and rights-of-way as set forth in the Plat of the Lauderdale-By-The-Sea Subdivision as recorded in Plat Book 6, at Page 2 of the Public Records of Broward County, Florida;

and

The real property bounded on the west by the eastern boundary line of the El Mar Drive right-of-way, bounded on the east by the western shore of the Atlantic Ocean, bounded on the north by the southern boundary line of Lot 1, Block 8, and bounded on the south by the north boundary line of Lot 13, Block 7, all said Lots, Blocks and rights-of-way as set forth in the Plat of the Lauderdale By-The-Sea Subdivision as recorded in Plat Book 6, at Page 2 of the Public Records of Broward County, Florida.

- (2) The Town may not vacate, abandon, lease, sell, transfer possession or transfer ownership of the El Prado Property without first obtaining a majority vote of the Town's electors at a referendum election held for the specific purpose of authorizing said vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property.
- (3) Any referendum election called for the purpose of authorizing the vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property shall be held either on the same day as a regularly scheduled November general election or on the same day as a regularly scheduled March municipal election. The holding of a referendum election called for the purpose of authorizing said vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property on a day other than a regularly scheduled November general election or on a day other than a regularly scheduled March municipal election is expressly prohibited.
- (4) Every resident of the Town shall have standing to enforce the restrictions on the vacating, abandonment, lease, sale, transfer of possession or transfer of ownership of the El Prado Property established in paragraphs (2) and (3), above, of this provision of the Charter, by means of a suit in equity seeking either mandamus, prohibition, or injunction, or any combination thereof, but nothing in this provision of the Charter shall be construed to either create a cause of action at law for money damages, or to authorize a court of equity to award money damages as an incident to equitable relief, or to authorize an award of attorney's fees to the prevailing party or to any other party.

Sec. 7.3 Advisory boards; how constituted.

The Town Commission may at any time by resolution appoint advisory boards, composed of residents of the Town of Lauderdale-By-The-Sea, qualified to act in an advisory capacity to the Town Commission, the Town Manager, or to any department of the Town. The members of such boards shall serve without compensation at the pleasure of the Commission, and their duties shall be to consult and advise with such municipal officers and make written recommendations which shall become part of the records of the Town.

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